

**ILLINOIS
COMMERCE COMMISSION**

**ANNUAL REPORT
ON ELECTRICITY, GAS, WATER
AND SEWER UTILITIES**

2001

ICC Annual Reports

This report is one of four annual reports issued by the Illinois Commerce Commission.

Annual Report on Electricity, Gas, and Water Utilities

(issued 1985—1995 as Annual Report on Public Utilities)

This report may be obtained from:
Illinois Commerce Commission
Chief Clerk's Office
527 E. Capitol Avenue
Springfield, Illinois 62701
217/782-7434

Also on: www.icc.state.il.us

Annual Report on Telecommunications

This report may be obtained from:
Illinois Commerce Commission
Chief Clerk's Office
527 E. Capitol Avenue
Springfield, Illinois 62701
217/782-7434

Also on: www.icc.state.il.us

Annual Report on the Transportation Regulatory Fund

This report may be obtained from:
Illinois Commerce Commission
Transportation Division
Walk-In Center
527 E. Capitol Avenue
Springfield, Illinois 62701
217/782-4654

Annual Report on the Use of the Grade Crossing Protection Fund

This report may be obtained from:
Illinois Commerce Commission
Transportation Division
Walk-In Center
527 E. Capitol Avenue
Springfield, Illinois 62701
217/782-4654

The ICC On Line

Agendas for Commission meetings, selected Commission orders, annual reports, and other information are available on line from the Commission's Web Site:
www.icc.state.il.us

ICC's Electronic Docketing System
<http://eweb.icc.state.il.us/e-docket>

Plug In Illinois—Choosing an Electric Supplier
www.icc.state.il.us/icc/Consumer/PlugIn/default.htm

Contacting the ICC

Springfield and Chicago Offices

Illinois Commerce Commission
527 E. Capitol Avenue
Springfield, Illinois 62701

Illinois Commerce Commission
160 N. LaSalle, Suite C-BOO
Chicago, Illinois 60601

For any Public Utility service issue, for assistance, or information, or to file an Informal Complaint, please contact the ICC's Consumer Services Division.

Toll-free: 800/524-0795 (In Illinois only)
800/858-9277 (TTY)

Chicago:
Illinois Commerce Commission
Consumer Services Division
160 N. LaSalle Street
Suite C-BOO
Chicago, IL 60601

Springfield:
Illinois Commerce Commission
Consumer Services Division
527 E. Capitol Avenue
Springfield, Illinois 62701

On matters pertaining to trucking, and household goods moving, which are under the Commission's jurisdiction, please contact the Transportation Division Walk-In Center in Springfield.

217/782-4654
217/782-4915 (TTY)

For Railroad Safety issues, please contact:
217/782-7660

For Relocation Towing issues please contact:
Illinois Commerce Commission
Des Plaines Compliance Office
874/294-4326

January 31, 2002

The Honorable George Ryan
Governor, State of Illinois
State Capitol, Springfield, Illinois

Chairman and Members, Joint Committee on Legislative Support Service
313 State Capitol, Springfield, Illinois

Dear Governor, Chairman and Members of the Joint Committee:

We are pleased to submit to you the Commission's 2001 Annual Report on Electricity, Gas, Water, and Sewer Utilities. This Report covers the period of January 1, 2001, through December 31, 2001.

The Annual Report is submitted in compliance with the Public Utilities Act and specifically addresses the items cited in Section 4-304 of that Act, which requires the Commission to report on the following subjects: a general review of agency activities; a discussion of the utility industry in Illinois; a discussion of energy planning; the availability of utility services to all persons; implementation of the Commission's statutory responsibilities; appeals from Commission orders; studies and investigations required by state statutes; impacts of federal activity on state utility service; and recommendations for proposed legislation.

Among other Commission reports provided to the Governor and General Assembly each year are the following:

- Annual Report on Telecommunications
- Annual Report on the Transportation Regulatory Fund
- Annual Report on the Use of the Grade Crossing Protection Fund

Additional information about the Commission and its activities is available from the Commission's web sites listed on the previous page.

Sincerely,

Richard L. Mathias, Chairman

Ruth K. Kretschmer, Commissioner

Terry S. Harvill, Commissioner

Edward C. Hurley, Commissioner

Mary Frances Squires, Commissioner

THE MEMBERS OF THE ILLINOIS COMMERCE COMMISSION

Richard L. Mathias Chairman

Richard L. Mathias was appointed Commissioner and Chairman of the Commission in May 1998 and re-appointed Chairman in January 1999. His term as Commissioner expires in January 2002.

For approximately twenty years prior to his retirement in 1997 Mr. Mathias was president, executive vice president or general counsel of various financial service companies located in Chicago, New York and Seattle. He also practiced with a Chicago law firm and is admitted to practice law in Illinois and California. In addition, Mr. Mathias was director of the Illinois Department of Insurance and served as administrative assistant and deputy legal counsel to Illinois Governor Richard Ogilvie.

Mr. Mathias, an independent, was born in 1939 and is a graduate of Denison University (B.A.) and the University of Michigan Law School (J.D.). He is married and has three adult children.

Ruth K. Kretschmer

Republican; appointed to the Commission in 1983; current term ends January 2003. Kretschmer serves as Chairman of the Commission's Gas Policy Committee and is a member of the Commission's Electric and Transportation Committees. She is the immediate past Chairman of the National Association of Regulatory Utility Commissioners (NARUC) Committee on Gas and serves as a member of the Advisory Council of the Center for Public Utilities, New Mexico State University. She is a member of the Mid-America Regulatory Conference and served as President from June 1995 to June 1996.

She has authored numerous articles regarding energy and telecommunications issues which have been published in academic and industry journals. Working with the U.S. Energy Association Commissioner, Kretschmer was instrumental in the establishment of the Regulatory Partnership between the Illinois Commerce Commission and the Republic of Kazakhstan.

Kretschmer served on the Board of Directors for the Center for Regulatory Studies at Illinois State University from 1985 through 1996. In January 1989, she was appointed to the Advisory Council of the Gas Research Institute and chaired the Council in 1995 and 1996. She also served on the Department of Transportation's Technical Pipeline Safety Standards Committee.

Prior to joining the Commission, Kretschmer was a member of the DuPage County Board and, concurrently a Commissioner for the DuPage County Forest Preserve for nine years. She served as a Commissioner of the Northeastern Illinois Planning Commission for 20 years and was the Commission's President during 1982 and 1983.

Kretschmer holds a degree from DePaul University in business administration and economics; she also attended Harvard University's John F. Kennedy School of Government and completed its Program for Senior Executives in State and Local Government. She is a member of the Economic Club of Chicago and The Chicago Network. She was selected as an honored member of Who's Who in Government Services for 1990.

Terry S. Harvill

Terry Harvill was appointed on May 14, 1998, by Illinois Governor Jim Edgar to the Illinois Commerce Commission. Mr. Harvill serves as the Chairman of the Illinois Commerce Commission's Electricity Policy Committee.

Prior to assuming his current position, Mr. Harvill served as Illinois Governor Jim Edgar's Assistant for Business and Economic Development. He has also served as the Senior Policy Advisor to the Chairman of the Illinois Commerce Commission and has served as a Senior Economist in the Rate Design Department of the Public Utilities Division of the Illinois Commerce Commission.

Mr. Harvill received a Bachelor of Science Degree in Economics from Illinois State University in 1991 and a Master of Science Degree in Economics from Illinois State University in 1992. Mr. Harvill has completed coursework towards a Ph.D. in Economics at the University of Illinois at Chicago. He is currently conducting research in the development of his dissertation.

Mr. Harvill serves on the Board of Directors of the National Regulatory Research Institute and the Board of Advisors of the Institute for Regulatory Policy Studies. He is also a member of the Harvard Electricity Policy Group. In addition, Mr. Harvill serves on the National Association of Regulatory Utility Commissioners' Committee on Finance and Technology and acts as a special liaison to the Committee on Electricity.

Mr. Harvill was awarded the Crain's Chicago Business 40 Under 40 Award in 1998, and in 2000, he was selected as one of twenty United States participants in the European Union Visitors Program.

Mr. Harvill was born on January 23, 1969. He is a native of Bethalto, Illinois and currently resides in the City of Chicago with his wife Shannon. Mr. Harvill is a Republican and his current term ends January 2003.

Edward C. Hurley

Democrat; born 1954; Marquette University, Milwaukee, Wisconsin (B.S. Business Administration, 1976); The John Marshall Law School, Chicago, Illinois (Juris Doctor, 1980); Associate, Jares, Komosa, Burke and Shanahan, Chicago, Illinois (1980-1982); Assistant Illinois Attorney General (1982-1984); Hearing Examiner, Illinois Commerce Commission (1984-1991); Secretary, General Counsel, General Manager, Custom Coffee Service Corp., Chicago, Illinois (1991-1998); assumed Commissionership February 16, 1999; current term ends January 2004; single.

Mary Frances Squires

Republican; born, 1934, Springfield College in Illinois; Administrative Assistant, House Majority Leader (1969-1983); Director, Legislative and Intergovernmental Affairs, Illinois Commerce Commission (1983-1987); Manager, Personnel and Labor Relations, Illinois Department of Public Health (1987-1990); Deputy Director, Personnel, Illinois Secretary of State (1991); Member, Sangamon County Board (1984-2000), Chairman, (1995-2000); assumed Commissionership, March 2000; Chairman, Illinois Commerce Commission Water Policy Committee; current term expires January 17, 2005.

ILLINOIS COMMERCE COMMISSION YEAR IN REVIEW 2001

ENERGY ISSUES: ELECTRICITY

Electric Restructuring

An additional 609,000 non-residential customers became eligible to choose a new electric supplier on January 1, 2001. At the end of November approximately 20,400 customers had switched the generation portion of their electric service to either an alternative supplier or to a lower cost generation service offered by the local utility. Customer switching is concentrated in the Commonwealth Edison service area; however, some customer switching is occurring in the Illinois Power, AmerenUE, AmerenCIPS, and MidAmerican Energy areas as well. The electric market will open to residential customers by May 2002.

Alternative Retail Electric Service

Six additional electric companies were certified as alternative retail electric suppliers in 2001, bringing the total number of alternative suppliers to 18. They include AES NewEnergy, Inc.; Ameren Energy Marketing Company; Ameren CIPS; Blackhawk Energy Services; CMS Marketing, Services and Trading Company; Central Illinois Light Company; Dynegy Energy Services, Inc.; EnerStar Power Corporation; Enron Energy Services, Inc.; Illinois Power Energy, Inc.; Illinois Power Company; MidAmerican Energy; Nicor Energy, L.L.C.; Peoples Energy Services Corporation, Sempra Energy Solutions; Sempra Energy Trading Corp.; South Beloit Water, Gas and Electric Company; Unicom Energy, Inc.; and WPS Energy Services, Inc. Company names, addresses, and contact personnel (with telephone numbers) have been posted to the ICC web site to assist customers who may be considering switching to an alternative provider of electricity.

Delivery Service Tariffs

Delivery service rates for residential customers were proposed by Commonwealth Edison, Illinois Power, MidAmerican, CILCO, Mt. Carmel, South Beloit, and Interstate Power. The Commission approved residential delivery service rates for Ameren UE and Ameren CIPS in December and continued the review of the remaining proposals. The Commission also certified the first meter service provider in the state, IMServe North America, following adoption of final metering rules.

Consumer Education Program

The Consumer Education Program continued to target the nearly 500,000 non-residential customers who were eligible for choice in December 2000 throughout the year and began developing informational materials for residential customers, who will have a choice of electric providers in May 2002. The campaigns include audio and video news releases, bill inserts, stories in trade publications and newsletters, business organizations, on-line advertising, and web site links. Work began on web pages directed specifically at the residential customer. The program also conducted a survey of approximately 250 small retail commercial customers in April to assess the effectiveness of educational efforts.

Neutral Fact Finder/ Alternative Market Value

In Docket 01-0053 the Commission entered an order discontinuing the neutral fact-finder process for the years 2002 and 2003. In a consolidated docket, the Commission entered an order authorizing Commonwealth Edison, Illinois Power, Central Illinois Public Service Company, and Union Electric to implement market value index tariffs. The tariffs would govern the methodology used to compute the market value of electricity, replacing the default computations of the Neutral Fact Finder.

FERC

In December, FERC approved the Midwest Independent System Operator (MISO) as the first official Regional Transmission Organization in the country and signaled its support for consolidation of the MISO and the Alliance RTO. FERC also denied the Alliance RTO regional transmission operator status.

Plant Sales/Utility Mergers

The merger of Interstate Power Company and Interstate Power and Light with and into IES Utilities, Inc. was approved by the Commission in May. The new company is known as Interstate Power and Light.

At the company's request, the Commission dismissed an AmerenUE petition to transfer its Illinois electric facilities and gas operation to AmerenCIPS.

Central Illinois Light Company filed a notice of intent to transfer its electric generating assets to a subsidiary. A proceeding was initiated to review the proposed transaction.

Decommissioning

The Commission issued an order on Commonwealth Edison Company's petition for a revised decommissioning expense adjustment rider. Approved were consumer contributions of approximately \$375 million toward decommissioning expenses through 2006.

Electric Reliability

The Commission also ordered Central Illinois Light Company to begin immediately to trim trees and other vegetation away from power lines. A staff inspection and reliability reports filed by the utility showed an unusual number of power outages related to tree limbs contacting electrical wires. The utility must achieve a four-year trim cycle by December 31, 2002.

Illinois Power Company became the first utility in the state to file a formal proposal for a vegetation management tariff, and six public hearings were scheduled around the state to receive public comment. However, IP later decided to withdraw the proposed tariff.

ENERGY ISSUES: GAS

Natural Gas Choice Program

Nicor Gas Company's request to expand the pilot Customer Select program to all of its customers was approved by the Commission to be effective March 1, 2002.

Gas Price Increases

During the winter of 2000-2001, natural gas costs reached levels that were two to three times the cost of gas the prior year. However, natural gas costs declined steadily throughout 2001, and at the end of the year, remained at about the same price as winters prior to 2000.

In response to Governor George Ryan's call for an investigation into the rising natural gas prices in 2000-2001, ICC staff conducted a study and found that natural gas supplies were low and demand was high during the extremely cold months of the winter of 2000, which led to higher prices. ICC staff also assisted the Governor's Energy Cabinet as it worked to develop a formal energy policy for the state.

Gas Cost Disallowance

The Commission found Illinois Power Company imprudently incurred \$958,000 in gas supply costs in 2000. The excess gas costs were the result of IP's decision to retire its Freeburg propane facility and the manner in which the company selected some of its firm swing supply reservation contracts.

WATER AND SEWER UTILITIES

The Commission adopted new rules for purchased water and sewage treatment surcharges and infrastructure plant surcharges. The rules, developed in cooperation with Illinois water and sewer companies, implemented a 1999 change in the Public Utilities Act, and outline what may be recovered for purchased water or sewage treatment and for qualifying infrastructure plant improvements not already in rate base. Consumers Illinois Water was the first Illinois company to receive Commission approval for an infrastructure plant rider.

Water Utility Mergers

A series of water company mergers approved by the Commission in 2001 included Citizens Utilities Company and Citizens Lake Water Company merging with Illinois American Water Company in May; Utilities, Inc. and Holiday Hills Inc.'s purchase of Community Service Corporation in May; Utilities Inc. and Westlake Utilities Inc.'s purchase of Westlake Utility Service Company in August; and Utilities Inc. and Wildwood Water Service's purchase of Wildwood Utility Company--as well as Nuon Acquisitions merger with Utilities, Inc. and each of its 21 operating subsidiaries in November.

Illinois-American Water Company and Thames Water Aqua Holdings filed a proposal for merger in December. If approved, American Water Works, the parent of IAWC, will become a subsidiary of Thames Water, headquartered in London, England.

COMMISSION ACTIVITIES

The Commission hosted the Illinois Energy Leadership Conference in October in Chicago, bringing together legislators, utility executives, and energy consultants to examine the development of the competitive market in energy and to examine issues of fuels, distribution and transmission when the phase-in period for deregulation in the state is complete.

The Gas Policy Committee of the ICC hosted a policy meeting with key utility personnel from Peoples Gas and North Shore Gas to discuss the types of safety issues facing gas utilities and the measures taken in response to heightened security concerns following terrorist attacks in Washington and New York on September 11.

The Consumer Services Division of the Commission began using a new automated call distribution system, which provides callers with the option of choosing the type of service they need. It also provides counselors with more

background information on the call and allows for faster response to each caller.

The ICC website was adapted for use with "text readers," software designed to read embedded text as the user tabs through the site. This enhancement allows visually impaired users, using software such as "Narrator" and "Jaws," to readily access information on the site. The ICC website was also enhanced by the addition of "The Press Room/Media" page. This page provides the media with easy access to useful and frequently requested information about the Commission.

The use of e-Docket continues to expand as more companies recognize and embrace the convenience of filing documents electronically. At the end of 2001, over 50,000 documents had been processed through e-Docket. Enhancements were made to the "Browse Docket" function to provide the user with the capability to filter and sort Service Lists and documents in a variety of ways. The system was also transitioned to a new database structure to improve reliability and enhance administration capabilities.

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INTRODUCTION

The following report for calendar year 2001 was prepared to meet the requirements of the Public Utilities Act (PA-84-617). Section 4-304 of this Act instructs the Illinois Commerce Commission to prepare an annual report and provide copies to the Joint Committee on Legislative Support Services of the General Assembly, the Public Counsel, and the Governor.

Nine specific sections on which the Commission is asked to report are cited in the Act. The report is therefore divided into nine main parts, as follows:

- A general review of agency activities;
- A discussion of the utility industry in Illinois;
- A discussion of energy planning;
- The availability of utility services to all persons;
- Implementation of the Commission's statutory responsibilities;
- Appeals from Commission orders;
- Studies and investigations required by state statutes;
- Impacts of federal activity on state utility service; and
- Recommendations for proposed legislation.

For the convenience of the reader, each part is given the same number designation as the corresponding subsection of the Public Utilities Act that it addresses.

Other information about the Commission and its activities is available from the Commission's web site, www.icc.state.il.us.

During 2001, the following persons (listed alphabetically) served as members of the Illinois Commerce Commission.

Terry S. Harvill

Edward C. Hurley

Ruth K. Kretschmer

Richard L. Mathias

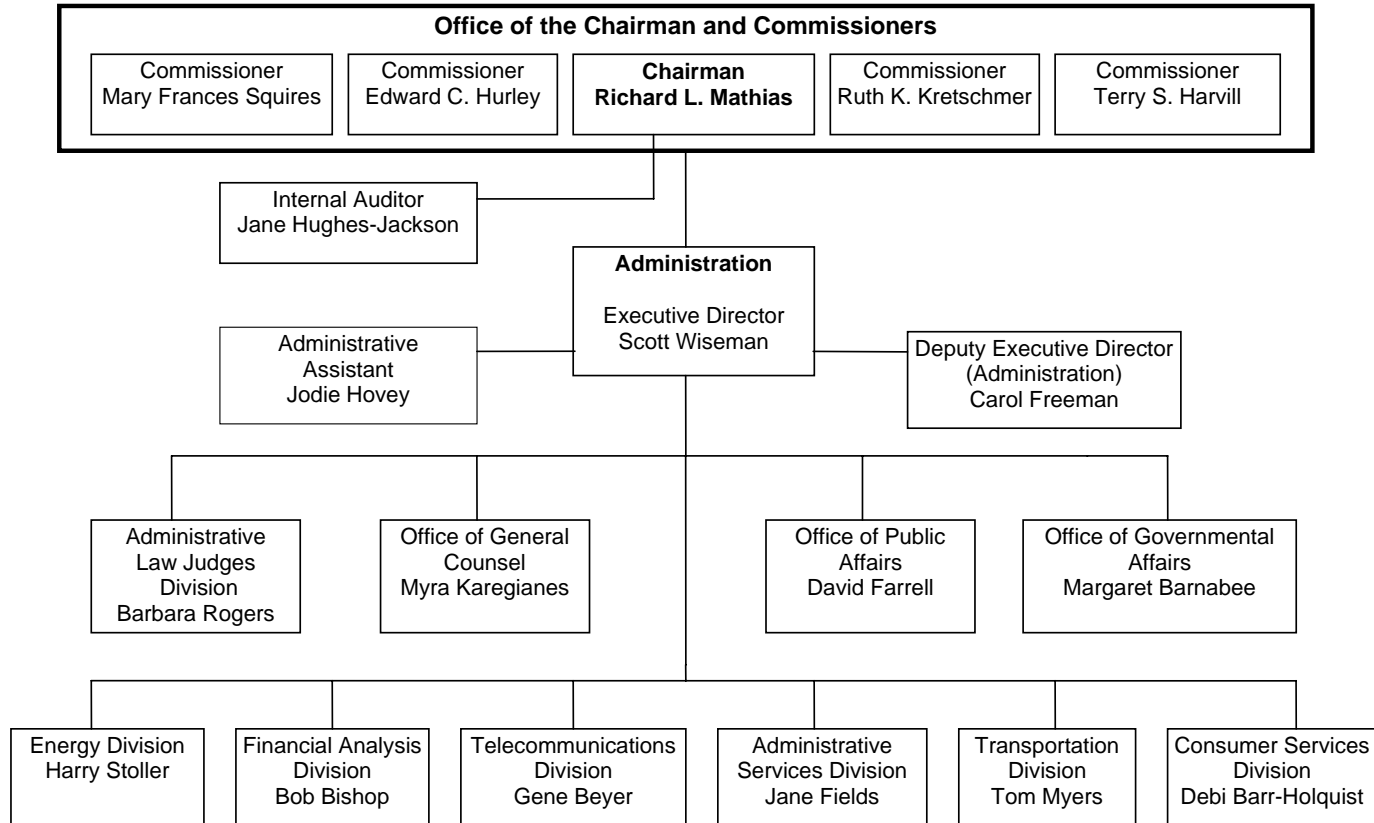
Mary Frances Squires

ILLINOIS COMMERCE COMMISSION

STATEMENT OF MISSION

The Illinois Commerce Commission, in a period of emerging reliance on the marketplace to ensure fairly-priced, reliable, and adequate utility services, will protect consumer interests and manage the transition of network industries from regulation to efficient competition through the use of innovative regulatory practices. Through its actions, the ICC shall generally promote effective competition in utility and transportation industries, enhanced consumer choice, efficient and effective dispute resolution, and the sharing of impartial and comprehensive information within its jurisdiction as provided by law.

**ILLINOIS COMMERCE COMMISSION
ORGANIZATION CHART**



SECTION 1

General Review of Agency Activities

(1) A general review of agency activities and changes, including:

(a) a review of significant decisions and other regulatory actions for the preceding year, and pending cases, and an analysis of the impact of such decisions and actions, and potential impact of any significant pending cases;

(b) for each significant decision, regulatory action and pending case, a description of positions advocated by major parties, including Commission staff, and for each such decision rendered or action taken, the position adopted by the Commission and reason therefor;

REVIEW OF SIGNIFICANT COMMISSION DECISIONS

Appendix A of this report contains summaries of significant Commission decisions made and other regulatory actions taken in 2001. These summaries are by no means exhaustive, but they do provide a representative sampling of Commission actions. If the reader would like to know more about any of the cases discussed in this report, both the Commission's order and the record for decision are available for examination in the Commission's Springfield office. In any proceeding in which the Commission has entered an order on the merits, the best summary of positions advocated and reasons for the Commission's adoption of a position is contained in the order itself.

Copies of these documents are available free of charge to public officers; others may obtain copies upon payment of the fee established in Section 2-201 of The Public Utilities Act. Selected orders and other Commission documents may be found on the Commission's web page (www.icc.state.il.us) or in the Commission's electronic docketing system (<http://eweb.icc.state.il.us/e-docket>).

PENDING CASES

As noted above, Section 4-304 of the Public Utilities Act also requires a review of pending cases, including an analysis of the potential impact and a description of positions advocated by staff and major parties. The Commission feels that it is precluded from entering into discussions of pending issues or characterizing positions advocated by staff and parties in pending cases. The dangers of acting otherwise include the possibility of violating restrictions on ex parte communications (see Section 10-103 of the Public Utilities Act and 83 Ill. Adm. Code 200.710) and the possibility of later being held to have prejudged issues pending before the Commission as of the date of this report. The Commission's record in pending cases is available for examination through the Chief Clerk's Springfield office.

SIGNIFICANT REGULATORY ACTIONS

Significant actions taken by the Commission during 2001 are described in the summary statement, "The Year in Review," immediately preceding this section.

(1-c) a description of the Commission's budget, caseload, and staff levels, including specifically:

(i) a breakdown of type of case by the cases resolved and filed during the year and of pending cases;

CASES FILED DURING 2001

Table 1-1, Utility Cases Monthly Report, on the following page shows the cases and filings for each month for the years 2000 and 2001. This table also shows the totals by type for the year.

e-DOCKET: ICC's ELECTRONIC DOCKET FILING SYSTEM

To aid both the Commission staff and the public at large, the Illinois Commerce Commission has developed an electronic filing, reporting, and case management system called e-Docket that is accessible on the World Wide Web.

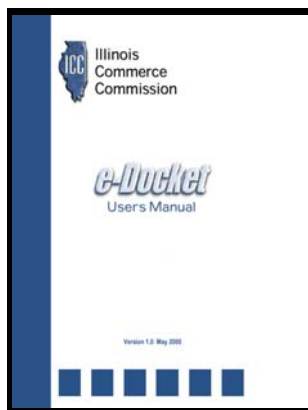
e-Docket is a Web-based, automated information and records-keeping system. It was developed to process and manage public information about the Commission's official cases and rulemaking proceedings. A person using e-Docket may conduct searches in two ways:

- **Search for cases:** permits searches by case types, service types, companies, and/or a date range as parameters.
- **Search for documents:** permits searches by document types, docket numbers, and/or a date range.

e-Docket has a variety of practical uses. Anyone interested in case proceedings conducted by the ICC may visit the e-Docket web site at <http://eweb.icc.state.il.us/e-docket> and view a wealth of information about active and closed cases initiated on or after January 1, 2000.

e-DOCKET USERS MANUAL PROVIDES INSTRUCTIONS FOR SEARCHING FOR DOCUMENTS

A twenty-four-page e-Docket users manual is available on the e-Docket web site to assist viewers in finding information about cases. It is important to remember, however, that e-Docket was first used as a way to store electronic documents in January 2000. Documents created prior to January 1, 2000, were filed with the Commission in paper format only. These are available for viewing in the Commission's Chief Clerk's Office.



**Table 1-1
Utility Cases Monthly Report**

Monthly Totals	Current Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Calendar Year to Date
Filings:														
New Cases	2001	113	88	99	51	70	55	47	52	53	48	108	59	843
	2000	121	73	66	63	64	89	54	58	62	46	64	59	819
Filings/Reports (SPI)	2001	659	608	710	674	376	427	482	460	368	496	552	550	6,362
	2000	494	365	369	406	352	364	396	423	448	380	479	328	4,804
Filings/Reports (CHI)	2001	1	-	1	-	-	-	-	-	-	-	-	-	2
	2000	-	-	-	-	-	-	-	-	-	-	-	-	0
Hearing & Comm. Action Notices	2001	172	186	265	220	157	136	208	189	132	164	210	116	2,155
	2000	166	173	229	142	205	241	162	174	223	200	186	128	2,229
Supplemental/ Reopen Petitions	2001	1	-	2	1	-	-	2	1	-	-	1	-	8
	2000	-	-	-	5	-	-	-	-	-	-	1	1	7
Petitions for Rehearing	2001	2	3	2	3	10	5	4	5	1	5	1	6	48
	2000	3	-	1	5	4	1	-	4	7	1	2	5	33
Cases Closed (Orders/Commission Actions)	2001	81	64	70	142	56	73	76	42	86	62	34	63	849
	2000	74	59	125	65	30	59	53	58	72	80	63	52	790
Tariff Filings	2001	157	140	173	139	205	178	185	168	220	161	151	211	2,088
	2000	201	154	188	159	215	194	162	170	143	167	162	156	2,071

(ii) a description of the allocation of the Commission's budget, identifying amounts budgeted for each significant regulatory division, or office of the Commission and its employees.

(iii) a description of current employee levels, identifying any change occurring during the year in the number of employees, personnel policies, and practices or compensation levels; and identifying the number and type of employees assigned to each Commission regulatory function and to each department, bureau, section, division, or office of the Commission.

The following table on shows the Commission's budget and authorized headcount by divisions and funding source.

**TABLE 1-3
Budget and Headcount by Division
As of July 1, 2001**

Division	Public Utility Fund		Transportation Regulatory Fund		General Revenue Fund		Totals	
	Head	Budget	Head	Budget	Head	Budget	Head	Budget
	Count	\$	Count	\$	Count	\$	Count	\$
Chairman & Commissioners	14	1,187,500	1	112,800	0		15	1,300,300
Public Utilities	233	24,527,100			0	1,667,200	233	26,194,300
Transportation			90	12,321,100			90	12,321,100
Single State Registration			0	8,000,000			-	8,000,000
Totals	247	25,714,600	91	20,433,900	0	1,667,200	338	47,815,700

Headcount is shown at the authorized level.

Budget \$ shown represent the FY02 appropriation.

(1-d) a description of any significant changes in Commission policies, programs or practices with respect to agency organization and administration, hearings and procedures or substantive regulatory activity.

AGENCY ORGANIZATION AND ADMINISTRATION

There were no significant changes in Commission policies or programs with respect to agency organization or administration in 2001.

SECTION 2

A Discussion of the Utility Industry in Illinois

2. A discussion and analysis of the state of each utility industry regulated by the Commission and significant changes, trends and developments therein, including the number of types of firms offering each utility service, existing, new and prospective technologies, variations in the quality, availability and price for utility services in different geographic areas of the State, and any other industry factors or circumstances which may affect the public interest or the regulation of such industries.

SIGNIFICANT CHANGES AND TRENDS IN THE UTILITY INDUSTRY

For a discussion of changes and trends in the natural gas and electric power industry, see Section 8 of this report.

DISCUSSION OF THE QUALITY, AVAILABILITY, AND PRICE OF UTILITY SERVICES BY GEOGRAPHIC AREA

ELECTRICITY

Electric service to retail customers is provided in the State of Illinois by the following nine investor-owned public utilities.

AmerenCIPS
AmerenUE
Central Illinois Light Company
Commonwealth Edison Company
Illinois Power Company
MidAmerican Energy Company
Mt. Carmel Public Utility Company
South Beloit Water, Gas and Electric Company

Electric service is also provided in Illinois through municipal systems and electric cooperatives, neither of which is regulated by the Commission. Data as to the quality, availability, and price of electric service are not reported to the Commission by these providers and will not be a subject of this report.

Northern Illinois

Electricity is sold in northern Illinois by four electric utilities: Interstate Power, Commonwealth Edison Company, MidAmerican Energy Company, and South Beloit Water, Gas and Electric Company. Commonwealth Edison Company is by far the largest investor-owned electric utility in Illinois, serving 3,507,726 customers in 396 communities. Included in its service territory is the Chicago metropolitan area. MidAmerican Energy Company provides service to 83,216 customers in 42 communities in northwestern Illinois. Interstate Power Company has 11,153 customers in 13 communities also in northwestern Illinois. South Beloit Water, Gas and Electric Company provides electrical service to 7,891 customers in 8 communities adjacent to the Wisconsin border.

Northern Illinois' electric generation capacity for the summer of 2001 was adequate. All of the area's available nuclear capacity was operating. In addition, there was an additional 3,100 MW of generation during the summer of 2001 from combustion turbine "peaking" units operated by unregulated power producers. This additional generation plus the availability of base generation resulted in an ample supply of generating capacity.

The price of electricity sold by these four utilities varied between utilities and within utilities depending upon the class of customer served. Table 2-1 shows detailed price per Kwh information for all electric utilities under ICC jurisdiction.

The average price per Kwh for 1993-2000 for the four utilities is as follows:

	1993	1994	1995	1996	1997	1998	1999	2000
Interstate Power	5.12¢	4.95¢	5.02¢	4.75¢	4.69¢	4.87¢	4.58¢	4.79¢
Commonwealth Edison	7.39	7.32	7.49	7.53	7.38	7.26	6.47	5.69
MidAmerican	5.76	6.18	6.60	5.47	4.92	5.03	5.04	4.97
South Beloit	4.94	4.79	4.58	4.30	4.44	4.74	4.88	5.28

Central Illinois

Electric service is provided to central Illinois by three investor-owned electric utilities: AmerenCIPS, Central Illinois Light Company (CILCO), and Illinois Power Company (IP). AmerenCIPS and IP also provide service to southern Illinois. CILCO serves 199,897 customers in central Illinois in the Peoria area and 108 other communities. Ameren CIPS provides service to 561 communities across central and southern Illinois with a total customer population of 323,568. IP serves 567,576 customers in 421 Illinois communities in central and southern Illinois.

Central and southern Illinois' electric generating capacity was adequate for the 2001 summer peak. During 2001, no merchant plant generating capacity came on line in central Illinois.

The average price per Kwh for 1993-2000 for the three utilities is as follows:

	1993	1994	1995	1996	1997	1998	1999	2000
Ameren CIPS	4.68¢	4.89¢	4.97¢	4.93¢	5.09¢	5.19¢	5.14¢	5.15¢
CILCO	5.46	5.35	5.47	5.15	5.24	5.39	5.66	5.80
Illinois Power	5.61	5.79	6.15	5.76	5.63	5.13	6.30	6.00

Southern Illinois

Ameren CIPS and IP serve much of southern Illinois. Service areas for these companies were discussed in the previous section concerning central Illinois. Customer and price statistics given above include southern Illinois and will not be repeated in this section. Two other utilities will be discussed, as they operate only in southern Illinois.

Missouri-based AmerenUE provides electric service to 63,361 customers in 17 communities in southwestern Illinois. Mt. Carmel Public Utility Company serves 5,639 customers in 2 communities in southeastern Illinois.

As with the other parts of Illinois during the summer of 2001, there was an ample supply of electricity in southern Illinois. There is also significant merchant plant activity in southern Illinois. During 2001, 600 MW of unregulated power production capacity was added.

The average price per Kwh for 1993-2000 for the two utilities is as follows:

	1993	1994	1995	1996	1997	1998	1999	2000
Ameren UE	4.63¢	4.26¢	4.29¢	4.21¢	3.90¢	4.05¢	3.98¢	4.02¢
Mt. Carmel	5.79	5.66	5.62	5.98	6.22	6.81	6.81	6.67

**TABLE 2-1
ILLINOIS ELECTRIC UTILITIES**

**REVENUE PER KWH BY CLASS OF SERVICE BY COMPANY
(CENTS)
2000**

<u>CLASS OF SERVICE</u>	<u>CILCO</u>	<u>AMEREN CIPS</u>	<u>COM ED</u>	<u>ILL POWER</u>	<u>INTER- ST PWR</u>	<u>MID AMER</u>	<u>MT. CARMEL</u>	<u>SOUTH BELOIT</u>	<u>AMEREN UE</u>
RESIDENTIAL SALES	7.92	7.42	9.31	8.32	6.25	8.33	8.54	6.84	6.74
LARGE (INDUSTRIAL)	3.83	3.88	4.52	3.88	3.48	4.05	5.22	4.33	2.88
SMALL (COMMERCIAL)	7.23	6.64	7.24	7.81	6.22	6.20	9.14	5.98	5.15
PUBLIC STREET & HIGHWAY LIGHTING	5.71	7.08	6.02	7.11	14.46	7.78	0.00	12.60	9.14
OTHER SALES TO PUB- LIC AUTHORITIES	0.00	5.50	5.31	6.68	4.17	5.15	6.17	0.00	0.00
SALES TO RAILROADS AND RAILWAYS	0.00	0.00	5.75	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL SALES TO UL- TIMATE CUSTOMERS	6.07	5.88	6.87	6.00	4.60	6.09	6.75	5.40	4.02
SALES FOR RESALE	3.77	3.20	2.77	5.19	7.42	2.40	3.53	2.09	4.11
INTERDEPARTMENTAL SALES	7.55	3.74	0.00	0.00	20.85	0.00	0.00	4.92	0.00
TOTAL SALES OF ELECTRICITY	5.80	5.15	5.69	6.00	4.79	4.97	6.67	5.28	4.02

NATURAL GAS

Natural gas service is currently provided in the State of Illinois by the 14 investor-owned gas public utilities listed below:

AmerenCIPS
AmerenUE
Central Illinois Light Company
Consumers Gas Company
Illinois Gas Company
Illinois Power Company
Interstate Power Company
MidAmerican Energy Company
Mt. Carmel Public Utility Company
Nicor Gas
North Shore Gas Company
Peoples Gas Light and Coke Company
South Beloit Water, Gas and Electric Company
United Cities Gas Company

Additional gas service is provided in Illinois by municipal gas systems not subject to regulation by the ICC. For this reason, data concerning quality, availability, and price for these systems are not available to the ICC and therefore are not considered in this document.

During 2001, natural gas service was available without major interruption to all firm customers served by these 14 Illinois utilities. Natural gas prices for the winter of 2000-2001 were significantly higher than historical natural gas costs. For much of 2001, the price of natural gas decreased steadily to return to prices similar to prior historical levels. A considerable number of commercial and industrial customers chose to purchase gas directly from wholesale suppliers and use the local gas utility as a transporter. During 2002, sufficient supplies of natural gas are expected to be available to all customers.

Northern Illinois

Gas distribution and sale of natural gas is provided in northern Illinois by six public utilities as follows: Interstate Power Company, MidAmerican Energy Company, Nicor Gas, North Shore Gas Company, Peoples Gas Light and Coke Company, and South Beloit Water, Gas and Electric Company.

Nicor Gas is the largest gas distribution company in the state providing service to 1,847,669 customers in 641 communities in northern Illinois. Peoples Gas Light and Coke Company, which serves the City of Chicago, is the second largest utility in Illinois with 825,464 customers. North Shore Gas Company serves 147,138 gas customers in 56 communities north of the Chicago area. Of the remaining three companies serving northern Illinois, MidAmerican Energy Company is the largest with 65,568 customers in 27 communities. South Beloit Water, Gas and Electric Company serves 6,470 customers in 9 communities. Finally, Interstate Power Company serves 5,405 customers in 11 communities.

As with the price of electricity, the price of gas varies among utilities and is generally determined by the suppliers of natural gas that serve the local distribution company. Table 2-2 on page 14 shows price per therm by customer class for all gas utilities under ICC jurisdiction. For the northern Illinois utilities, the average price per therm for 1995-2000 is as follows:

	1995	1996	1997	1998	1999	2000
Interstate	48.74¢	49.99¢	56.05¢	55.70¢	50.18¢	65.52¢
MidAmerican	43.07	50.90	56.05	48.75	52.41	73.28
Nicor Gas	36.63	41.84	48.11	42.27	43.02	61.73
North Shore Gas	50.30	56.97	60.32	56.43	56.18	73.67
Peoples Gas	53.16	60.66	66.02	64.09	64.21	82.10
South Beloit	45.52	44.44	58.63	66.86	54.29	58.08

Central Illinois

Gas distribution and sale of natural gas is provided in central Illinois by three large distribution companies: AmerenCIPS, Central Illinois Light Company (CILCO), and Illinois Power Company. CILCO provides gas service to 204,836 customers in 128 communities, the two largest being the Peoria and Springfield metropolitan areas. AmerenCIPS serves mostly rural areas in central and southern Illinois, providing service to 294 communities with a total customer population of 168,009. Illinois Power provides gas service to 398,225 customers in 302 communities in various parts of the state, ranging from Galesburg in west-central Illinois to areas in southwestern Illinois and including the East St. Louis metropolitan area.

The average price per therm for the three utilities for 1995-2000 is as follows:

	1995	1996	1997	1998	1999	2000
AmerenCIPS	53.76¢	57.16¢	51.29¢	52.29¢	63.63¢	78.53¢
CILCO	46.48	53.08	55.07	50.85	50.01	67.18
Illinois Power	43.07	47.37	61.18	52.49	53.33	67.50

Southern Illinois

Gas distribution and sale of natural gas is provided in southern Illinois by two large distribution companies; AmerenUE and Illinois Power discussed earlier, and the following five smaller distribution companies: AmerenUE, Consumers Gas Company, Illinois Gas Company, Mt. Carmel Public Utility Company, and United Cities Gas Company.

United Cities provides service to 22,817 customers in 32 communities in a number of distinct service areas in southern Illinois. AmerenUE serves 18,303 customers in 5 communities in the Alton metropolitan area in southwestern Illinois. Illinois Gas serves 10,355 customers in 15 communities in the Lawrenceville-Olney area. Consumers Gas serves 5,978 customers in 16 communities in the Carmi area. Finally, Mt. Carmel serves 3,714 customers in 8 communities in the Mt. Carmel area.

The average price per therm for the six utilities for 1995-2000 is as follows:

	1995	1996	1997	1998	1999	2000
AmerenUE	42.05¢	48.01¢	58.38¢	48.47¢	64.53¢	79.94¢
Consumers Gas	45.67	54.59	54.07	51.30	44.29	72.38
Illinois Gas	43.80	52.68	57.22	52.27	53.47	77.38
Mt. Carmel	47.86	44.14	52.93	54.26	56.01	69.17
United Cities	52.44	57.67	65.86	61.24	56.36	73.30

TABLE 2-2

ILLINOIS GAS UTILITIES

REVENUE PER THERM BY CLASS OF SERVICE BY COMPANY

2000

(CENTS)

<u>CLASS OF SERVICE</u>	<u>CILCO</u>	<u>AMEREN CIPS</u>	<u>CONS GAS</u>	<u>ILL GAS</u>	<u>IL PWR</u>	<u>INTER ST PWR</u>	<u>MID AMER</u>	<u>MT CARMEL</u>	<u>NORTH SHORE</u>	<u>Nicor GAS</u>	<u>PEOPLES GAS</u>	<u>SOUTH BELOIT</u>	<u>AMEREN UE</u>	<u>UNTD CITIES</u>
RESIDENTIAL SALES	77.98	81.12	75.50	84.57	72.96	66.45	74.69	72.82	74.67	61.82	83.44	57.22	83.70	76.13
SMALL (OR COMM.)	66.84	79.13	75.94	80.61	63.40	63.46	70.79	67.01	70.12	61.38	76.06	58.25	79.41	66.61
LARGE (OR IND.)	43.68	55.65	60.84	63.60	51.16	64.99	73.06	53.88	64.07	60.42	70.74	62.06	57.69	57.61
OTHER SALES TO PUBLIC AUTHORITIES	0.00	0.00	77.59	0.00	0.00	0.00	0.00	80.88	0.00	0.00	0.00	0.00	0.00	70.43
TOTAL GAS SALES TO ULTIMATE CUSTOMERS	71.21	78.54	73.77	77.38	67.50	65.52	73.52	69.17	73.67	61.73	82.10	58.08	79.94	73.30
INTERDEPARTMENTAL	43.37	55.08	0.00	0.00	0.00	67.59	29.01	0.00	0.00	0.00	0.00	119.39	0.00	0.00
SALES FOR RESALE	33.28	0.00	59.02	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL GAS SALES	67.18	78.53	72.38	77.38	67.50	65.52	73.28	69.17	73.67	61.73	82.10	58.08	79.94	73.30

WATER AND SEWER UTILITIES

The Commission currently regulates 33 water, 5 sewer, and 14 combined water and sewer investor-owned utilities. This appears to be one more investor-owned water utility than at the start of last year, however, this utility was regulated by the Commission last year but was not listed as a separate utility because the stock of this utility was acquired by another investor-owned utility. Since this time, however, both utilities continue to operate separately and file separate annual reports so the utility has been included again. While the number of investor-owned utilities is a small percentage of the 1,900 public water suppliers and 750 public sanitary sewage systems with treatment facilities in the state, these investor-owned utilities provide water service to 1.15 million people and sewer service to 175,000 people. The investor-owned utilities serve customers in 38 counties concentrated in the Chicago metropolitan area, with the number of customers served ranging from 22 to 219,000. Only nine utilities serve more than 1,000 customers. Table 2-3 on page 19 gives a comparison of bills for these nine utilities providing service to 1,000 customers or more.

There are still considerably fewer investor-owned water an/or sewer utilities than in the past. The reduced number of investor-owned water and sewer utilities is partly the result of the overall Commission effort to reduce the number of small utilities. Small utilities, due to their limited number of customers, typically have difficulties generating sufficient revenues to maintain the system and to hire employees with the necessary expertise to function as an investor-owned utility.

The Commission has found that, in most cases, customers receive better service at lower rates from larger utilities due to the economies of scale that are realized. The Commission has promoted acquisition or mergers of small systems by larger municipal and investor-owned utilities to take advantage of these economies of scale. When acquisitions and mergers are not practical, the possibility of the small systems being operated as a mutual by a homeowners association is investigated. Mutual operations, which are exempt from Commission jurisdiction, often result in lower costs to customers for small systems. In 2001, Utilities, Inc. acquired three small investor-owned utilities as operating subsidiaries. Utilities, Inc. is now the parent company of these three utilities, as well as, 21 other operating subsidiaries. Since each subsidiary is listed as separate investor-owned utilities, these acquisitions did not affect the number of utilities.

The problems encountered by small systems were evident again in 2001. Five small water utilities (owned by one individual serving a total of 2,219 customers) that were cited by the Commission for poor water service in 1997 with a final Order in 1999 are being investigated again in additional citation proceedings in 2001 for failure to make specified improvements required by the 1999 Order. These additional citation proceedings are scheduled for hearings in the earlier part of next year. Customer service has remained uninterrupted.

On an international basis two mergers were announced. Utilities, Inc., which now has 24 small operating subsidiaries in Illinois, announced that it had entered into an agreement and plan of merger with Nuon, a Dutch public company. The Commission approved this merger in November. Late in the year, Illinois-American Water Company's (IAWC) parent company, American Water Works (AWW), which is the largest publicly traded water company in the US, announced that it had entered into an agreement to be acquired by RWE Aktiengesellschaft, headquartered in Essen Germany, which is the third largest water/wastewater services company in the world. Upon completion of the merger, AWW will become an operating subsidiary of Thames Water, headquartered in London, England, which in turn is already an operating subsidiary of RWE. A petition for this reorganization was filed on December 21, 2001. The closing for this reorganization is expected to be completed early in 2002. Additionally, the Commission approved IAWC's petition for the purchase of Citizens Utilities Company of Illinois.

Most of the larger investor-owned water utilities serve municipalities adjacent to the state's major rivers, and the utilities use those rivers as their source of water supply. River supplies are generally adequate and the water, when treated, meets the criteria established by the Illinois Environmental Protection Agency (IEPA) except for nitrate levels in some rivers that exceed the standards during periods of heavy water run-off from agricultural lands.

IAWC continues to actively participate in the Vermilion Watershed Task Force, the group formed to concentrate on the effective management of the river as a resource. The application of nitrogen-based

fertilizers in agriculture and its impact on the provision of potable water continues to be the focus. With exceptionally high levels of Nitrates in the Vermillion River in 2001, IAWC – Streator District installed an innovative, temporary Reverse Osmosis Water Treatment system in July 2001 to reduce Nitrates to an acceptable level below the Maximum Contaminant Level (MCL). Long-term solutions are under study, including the installation of automated blending equipment designed to maximize the conservation of low-nitrate reservoir water used for blending with water pumped directly from the river.

Consumers Illinois Water Company, Vermilion Division, has periodically experienced levels of nitrate in the raw water in excess of the maximum allowed by the United States Environmental Protection Agency (USEPA) and operates an ion exchange treatment system to reduce the nitrate level below the MCL.

There are several other upcoming regulations by the USEPA that could potentially impact the costs of well supplies in Illinois. The principle examples are arsenic, radionuclides and radon. The proposed arsenic limitations are a good example of the more strenuous standards being considered. Currently, the MCL is 50 parts per billion (ppb). On October 31, 2001, the USEPA announced that the arsenic standard in drinking water would be 10 parts per billion (ppb) with a compliance date of January 2006. The change in the Arsenic rules may force one investor-owned water utility to either install costly treatment equipment or to find another source of supply, which in most instances would be substantially more expensive.

Water supplies for Commission investor-owned water utilities were generally adequate in 2001. Most smaller systems serve unincorporated residential developments, often a single subdivision, and are typically located in the northern half of the state. Wells serve as the source of supply for most small systems. Well water quality varies considerably and can contain undesirable minerals such as iron, manganese and calcium that, while not injurious to health, do cause aesthetic problems. Aesthetic problems have caused several utilities located in the Chicago metropolitan area to obtain Lake Michigan water.

As indicated in previous report, Citizens Water Resources Corporation was granted a certificate as a Water Common Carrier by Pipeline to construct and operate an eighteen mile pipeline to transport Lake Michigan water from Bedford Park to its affiliate, Citizens Utilities Company of Illinois, for distribution to its approximately 36,000 customers in the Alpine Heights, Chicago Suburban, Dupage County, Fernway, Moreland, Sante Fe, Southwest and West Suburban, and Waycinden areas. Water service providing Lake Michigan water commenced in March of 2001.

Because of the substantial costs involved in obtaining Lake Michigan water, customers are polled to determine whether they are willing to pay the cost of obtaining that water in cases where Lake water is sought to eliminate aesthetic problems. In virtually every instance where Lake water is available, customers voted overwhelmingly in favor of efforts to acquire such a supply in spite of the substantially increased cost, which often is in the range of \$3.00 per 1,000 gallons.

Of the 19 investor-owned utilities that provide sewer systems, only two systems provide service to more than 5,000 customers. The other sewer systems are small, although one does provide service to a major manufacturing plant. Some of the systems have difficulty meeting the stream discharge standards established by the IEPA. Due to the prohibitive cost of constructing new sewage treatment plants for a limited number of customers, the smallest systems have, where possible, sought treatment from nearby regional plants. All sewer utilities located within the boundaries of the Metropolitan Water Reclamation District of Greater Chicago (MWRD) discharge their waste to the MWRD for treatment. The investor-owned sewer systems provide service primarily to residential customers and serve a very limited number of commercial and industrial customers.

Bills for sewer service are typically flat rate charges since metering of sewage flow is uneconomical and impractical for residential customers. The rates vary considerably and depend on many factors, including the age of the treatment plant and treatment criteria for the receiving stream. In some instances, the rates do not reflect the cost of treatment, which is ultimately recovered through taxation by a municipal corporation (such as the MWRD). Other utilities have recently completed new treatment plants, and rates in the range of \$40 to \$73 per month reflect the substantial investment in such facilities. Overall, rates for single-family homes average \$25-30 per month.

On January 1, 2001, the IAWC's new Alton water treatment plant officially replaced the old treatment plant built in 1897. This \$38.7 million dollar, state of the art, totally enclosed, 16 MGD surface water treatment plant using Mississippi River water now serves Alton's 50,000 residents and is not susceptible to flooding like the prior plant. In addition, AWW renovated the formerly occupied Owens-Illinois, Inc. glassworks plant in Alton, which was closed in 1992, to house the new National Customer Service Center in Alton. The Service Center commenced service on April 21, 2001, serving 10 million customers in 23 States including IAWC, which serves 760,000 people in 90 communities.

With the September 11, 2001, terrorist attacks, security has become an important issue for water utilities. USEPA Administrator Christine Todd Whitman has assured the public that the nation's drinking water is safe and highly unlikely to be compromised in the event of a terrorist attack. This is mainly due to the fact that with the large quantities of water processed in the plants and the effective treatment mechanisms already in place, anything less than many tankers full of dangerous agents, would be diluted and easily neutralized. However, most of the regulated utilities are still spending large amounts of money for additional security measures, which will have a resulting effect on costs for both well and surface water systems. The Commission has updated its emergency contact information for investor-owned water and sewer utilities. This will enable us to contact appropriate personnel of an investor-owned water or sewer utility during any emergency situation on a direct and timely basis 24 hours a day, seven days a week to assist Illinois Emergency Management Agency and other State Agencies in Illinois to ensure effective responses to emergencies such as terrorist attacks, floods, tornadoes, and earthquakes.

On December 5, 2001, the Commission entered an Order adopting 83 Ill. Adm. Code 655, "Purchased Water and Sewer Treatment Surcharges," with an effective date of December 19, 2001. The purpose of Part 655 is to implement Section 9-220.2 of the Public Utilities Act, which authorizes water and sewer utilities to impose surcharges for the cost of purchased water, the cost of purchased sewage treatment, other costs difficult to predict, and infrastructure costs independent of the utilities' revenue requirements. Three utilities presently have in effect a separate charge for the recovery of purchased water/sewage treatment costs and will therefore be required to file new tariff sheets by June 17, 2002.

On December 5, 2001, the Commission entered an Order adopting 83 Ill. Adm. Code 656, "Qualifying Infrastructure Plant Surcharge," with an effective date of December 19, 2001. The purpose of Part 656 is to implement Section 9-220.2 of the Public Utilities Act, which authorizes water and sewer utilities to impose surcharges for the cost of purchased water, the cost of purchased sewage treatment, other costs difficult to predict, and infrastructure costs independent of the utilities' revenue requirements. One utility has already filed and received Commission approval for implementing this surcharge and more are expected to be filed soon.

FINANCIAL HEALTH OF THE UTILITY INDUSTRY IN ILLINOIS

Credit ratings are the single most comprehensive and widely accepted measure of the financial condition of a business enterprise. Several independent financial research firms provide rating services that categorize corporate debt issues on the basis of risk. Virtually all of the major electric and natural gas utilities serving Illinois have ratings assigned to their debt issues.

There is no formula for determining credit ratings. In assigning ratings to a firm's debt, rating agencies give consideration to both qualitative and quantitative factors. For a public utility, the financial aspects reviewed by rating agencies can be separated into six criteria: debt leverage, construction and asset concentration risks, earnings protection, financial flexibility and capital attraction, cash flow adequacy, and accounting quality. Non-financial rating criteria include service territory characteristics, fuel supply and generating capacity, operating efficiency, regulatory treatment, and management.

The following table shows the nationwide electric utility industry average credit rating, as well as the ratings for the seven major electric utilities serving the State of Illinois. Interstate Power, AmerenUE, and MidAmerican Energy have the majority of their operations in other states.

**Electric Utility Credit Ratings by Standard and Poor's
1996 to Present**

			<u>199</u> <u>6</u>	<u>199</u> <u>7</u>	<u>199</u> <u>8</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>
Electric	Utility	Industry	A-	A-	A-	A-	A-	BBB+
Average								
AmerenCIPS			AA+	AA+	AA-	AA-	A+	A+
AmerenUE			AA-	AA-	AA-	AA-	A+	A+
CILCO			AA-	AA-	AA-	BBB-	BBB-	BBB-
ComEd			BBB	BBB	BBB	BBB+	A-	A-
Illinois Power			BBB	BBB	BBB	BBB	BBB+	BBB+
Interstate Power			A+	A+	A+	A+	A+	A-
MidAmerican Energy			A+	A+	AA-	A+	A	A

Like the electric utilities, natural gas distribution companies receive credit ratings that reflect the individual company's financial condition. The table below presents credit ratings for the four major natural gas distribution utilities serving the State of Illinois and the average bond rating for the nationwide natural gas distribution industry.

**Gas Utility Credit Ratings by Standard and Poor's
1996 to Present**

			<u>199</u> <u>6</u>	<u>199</u> <u>7</u>	<u>199</u> <u>8</u>	<u>199</u> <u>9</u>	<u>200</u> <u>0</u>	<u>200</u> <u>1</u>
Gas	Distribution	Industry	A	A	A	A	A	A
Average								
Atmos Energy			N/A	A-	A-	A-	A-	A-
Nicor Gas			AA	AA	AA	AA	AA	AA
North Shore Gas			AA-	AA-	AA-	AA-	AA-	AA-
Peoples Gas			AA-	AA-	AA-	AA-	AA-	AA-

Currently, none of the water utilities serving the State of Illinois have ratings assigned to their debt.

Table 2-3
ILLINOIS PUBLIC WATER UTILITIES
UTILITIES WITH 1,000 OR MORE CUSTOMERS
BILL COMPARISON - RESIDENTIAL CUSTOMERS WITH 5/8" METERS

AREA OF STATE	UTILITIES	TOTAL NUMBER OF CUSTOMERS	BILL COMPARISON BASED ON WATER USAGE				
			4,000 GALLONS	6,000 GALLONS	8,000 GALLONS	10,000 GALLONS	15,000 GALLONS
NORTHERN	Apple Canyon	2,695	\$21.92	\$30.38	\$38.84	\$47.30	\$68.45
	Citizens Utilities						
	Well Water	2,069					
	Moreland	0	\$13.66	\$15.94	\$18.22	\$20.50	\$26.20
	All Others	2,069	\$18.46	\$23.14	\$27.82	\$32.50	\$44.20
	Lake Water	36,031					
	Alpine Heights	232	\$28.14	\$37.66	\$47.18	\$56.70	\$80.50
	Chicago Suburban	7,701	\$27.74	\$37.06	\$46.38	\$55.70	\$79.00
	DuPage County	6,330	\$32.34	\$43.96	\$55.58	\$67.20	\$96.25
	Fernway	2,253	\$26.94	\$35.86	\$44.78	\$53.70	\$76.00
	Moreland	175	\$23.74	\$31.06	\$38.38	\$45.70	\$64.00
	Sante Fe/SW & W Suburban	17,274	\$32.14	\$43.66	\$55.18	\$66.70	\$95.50
	Waycinden	2,066	\$28.58	\$38.32	\$48.06	\$57.80	\$82.15
	Consumers Illinois						
	Candlewick	2,317	\$32.32	\$41.48	\$50.64	\$59.80	\$82.70
	Kankakee	21,749	\$22.24	\$26.91	\$31.58	\$36.24	\$47.91
	Oak Run	2,608	\$29.43	\$39.81	\$50.19	\$60.57	\$86.52
	University Park	1,690	\$18.49	\$21.77	\$25.04	\$28.31	\$36.49
	Willowbrook	885	\$20.77	\$28.33	\$35.89	\$43.45	\$62.35
	Woodhaven-Campsite	6,169	\$9.35	\$9.35	\$9.35	\$9.35	\$9.35
	Woodhaven-Metered	38	\$24.58	\$32.80	\$41.02	\$49.24	\$69.79
	Galena Territory	1,816	\$20.52	\$25.56	\$30.60	\$35.64	\$48.24
	Illinois-American						
	Sterling	6,524	\$22.19	\$26.54	\$30.89	\$35.23	\$46.10
	Streator	7,768	\$23.57	\$28.67	\$33.78	\$38.88	\$51.63
	Lake Holiday	2,085	\$17.28	\$23.42	\$29.56	\$35.70	\$51.05
	Lake Wildwood	1,788	\$23.48	\$30.72	\$37.96	\$45.20	\$63.30
	South Beloit	2,003	\$9.73	\$12.80	\$15.87	\$18.93	\$26.60
	Whispering Hills	2,167	\$17.54	\$23.74	\$29.94	\$36.14	\$51.64
CENTRAL	Consumers Illinois						
	Vermilion	17,162	\$30.67	\$38.33	\$45.98	\$53.64	\$72.78
	Illinois-American						
	Champaign	44,777	\$26.06	\$30.23	\$34.40	\$38.57	\$48.99
	Lincoln	5,891	\$21.39	\$27.84	\$34.29	\$40.75	\$56.88
	Pekin	13,567	\$20.19	\$23.84	\$27.48	\$31.13	\$40.24
	Peoria	49,268	\$25.80	\$31.64	\$37.47	\$43.30	\$57.88
SOUTHERN	Pontiac	4,412	\$28.12	\$34.65	\$41.18	\$47.72	\$64.05
	Illinois-American						
	Southern-Shiloh Inside Village	1,185	\$11.80	\$11.80	\$11.80	\$11.80	\$11.80
	Southern-Shiloh Outside Village	40	\$14.75	\$14.75	\$14.75	\$14.75	\$14.75
	Southern-Alton/Cairo/Interurban	85,705	\$25.47	\$31.31	\$37.14	\$42.97	\$57.55

SECTION 3

A Discussion of Energy Planning

(3) A Specific Discussion of the Energy Planning Responsibilities and Activities of the Commission and Energy Utilities Including:

(a) The extent to which conservation, cogeneration, renewable energy technologies and improvements in energy efficiency are being utilized by energy consumers, the extent to which additional potential exists for the economical utilization of such supplies, and a description of existing and proposed programs and policies designed to promote and encourage such utilization;

(b) A Description of each Energy Plan filed with the Commission pursuant to the Provisions of this Act and a copy or detailed summary of the most recent energy plans adopted by the Commission."

(c) A Discussion of the Powers by which the Commission is implementing the Planning Responsibilities of Article VIII, including the description of the staff and budget assigned to such function, the procedures by which Commission staff reviews and analyzes energy plans submitted by utilities, Department of Energy and Natural Resources, and any other person or party."

**ENERGY PROGRAMS DIVISION
INTEGRATED RESOURCE PLANNING**

Integrated Resource Planning Program

Section 8-402 of the Public Utilities Act, which set forth the Commission's resource planning responsibilities, was repealed by P.A. 90-561, effective December 16, 1997. The Commission disbanded the Energy Programs Division immediately thereafter.

COGENERATION

Commission Rule

The rules for the transfer of electric power between independent generating facilities and regulated electric utilities in Illinois are established by 83 Ill. Adm. Code Part 430. All utilities operating in Illinois must abide by these rules except for cooperatives and municipal utilities which are not regulated by the Commission.

The most important portion of the rules is the requirement that a utility must purchase cogenerated power at a price commensurate with the utility's avoided cost. Table 3-1 on page 24 lists 2001 avoided costs as filed annually by Illinois electric utilities.

Section 8-403 of the Public Utilities Act requires the Commission to conduct a study of procedures and policies to encourage the full and economical utilization of cogeneration and small power production. Pursuant to Section 8-403, the Commission submitted reports to the Governor and General Assembly in 1986 and 1987.

Special Rates

Cogeneration/self generation displacement and deferral rates can be in the form of special contracts or designed as tariffs. In each case the Commission's position has been to promote economic cogeneration or self generation, while avoiding uneconomic bypass of the utility's system. When the cogeneration or self generation discount rate brings a customer's individual rate closer to the utility's marginal cost of providing service, uneconomic bypass is less likely to occur.

TABLE 3-1
Avoided Cost Rate Structure of Illinois Electric Utilities ¹
(2001)

	<u>Summer Rates</u>	<u>Winter Rates</u>
Central Illinois Light		
On-Peak	2.76¢/Kwh	2.74¢/Kwh
Off-Peak	2.15¢/Kwh	2.20¢/Kwh
Central Illinois Public Service		
On-Peak	2.27¢/Kwh	2.27¢/Kwh
Off-Peak	2.27¢/Kwh	2.27¢/Kwh
Commonwealth Edison		
On-Peak	6.17¢/Kwh	3.89¢/Kwh
Off-Peak	2.42¢/Kwh	2.10¢/Kwh
Illinois Power		
On-Peak	1.44¢/Kwh	1.20¢/Kwh
Off-Peak	1.13¢/Kwh	1.11¢/Kwh
Interstate Power		
On-Peak	3.80¢/Kwh	3.79¢/Kwh
Off-Peak	1.66¢/Kwh	1.55¢/Kwh
MidAmerican Energy		
On-Peak	3.45¢/Kwh	2.12¢/Kwh
Off-Peak	1.09¢/Kwh	1.08¢/Kwh
Mt. Carmel Public Utility		
On-Peak	1.69¢/Kwh	1.69¢/Kwh
Off-Peak	1.69¢/Kwh	1.69¢/Kwh
South Beloit Water Gas & Electric		
On-Peak	4.03¢/Kwh	3.94¢/Kwh
Off-Peak	1.84¢/Kwh	1.69¢/Kwh
Union Electric		
On-Peak	2.54¢/Kwh	1.52¢/Kwh
Off-Peak	1.39¢/Kwh	1.38¢/Kwh

Source: Annual Filings of Illinois electric utilities pursuant to 83 Ill. Adm. Code 430.110.

¹ Time differentiated rate pricing is shown at transmission or subtransmission levels where possible; additional credits available at lower voltages, loads, and times (except for Mt. Carmel). See each utility filing for exact avoided energy costs under specific conditions.

SECTION 4

Availability of Utility Services to All Persons

(4) A discussion of the extent to which utility services are available to all Illinois citizens including:

(a) Percentage and number of persons or households requiring each such service who are not receiving such service, and the reasons therefore, including specifically the number of such persons or households who are unable to afford such service.

The information necessary to determine the number of persons lacking utility service within the state is difficult to obtain. Part of the difficulty is that all utility companies within the state track accounts by residence and not by customer name. Thus a utility could determine if a particular residence was disconnected and therefore no longer receiving service, but the utility would have no way of knowing whether that household regained service under another name in its own service territory or perhaps under the same name in a different service territory. In addition, persons disconnected might also move in with an acquaintance already receiving service or they might acquire service supplied by an electric co-operative or municipality over which we have no jurisdiction. Further, if the intent of the question is to ascertain the number of persons without access to a source of heat, the existence of non-utility sources such as wood stoves and kerosene heaters would further complicate the answer, thus the myriad of possibilities makes a truly accurate figure very elusive.

Although the Commission has limited resources available to determine the number of persons within the state lacking some type of utility service, and granting the uncertainty in accuracy of such a statistic, an estimate may be obtained by analyzing the disconnection and reconnection data provided to the Commission by all utilities.

To determine a rough estimate of the number of persons lacking utility service, one can look at the aggregate disconnection/reconnection figures for a 12-month period. The results for the period of December 2000 through November 2001 are as follows.

The average heat related residential class customer base equaled 7,065,942 households. In this class 212,773 accounts were disconnected and 115,594 were reconnected. This yields a 54 percent reconnection rate leaving 97,179 accounts not reconnected. The disconnected accounts represent 3 percent of the average residential customer base, while those accounts not reconnected represent a rate of 1.6 percent.

(4-b) a critical analysis of existing programs designed to promote and preserve the availability and affordability of utility services.

The Commission is aware of its obligations to minimize the dangers arising from unnecessary termination of gas and/or electric space heating service during the winter months. To minimize these dangers and be responsive to the needs of both Illinois consumers and the utilities that serve those consumers, the Commission has developed rules and regulations concerning the termination and reconnection of space heating service during the winter months. Many of these rules have since been enacted into law. In addition, the Commission has continued to refine its other rules regarding utility credit and collection activities to help Illinois utility consumers make timely payments on their obligations to utility companies and thus avoid termination of utility service. The following discussion is a synopsis of current regulations designed to promote and preserve the availability and affordability of residential utility services.

Temperature-Based Termination

If gas or electric service is the only source of space heating or if electricity is used to control the only space heating equipment such as an electric blower fan on a gas furnace, these services may not be disconnected on any day when the National Weather Service forecasts that the temperature for the next 24 hours will be 32 degrees or below, or on a day before a holiday or weekend when the weather is forecasted to be 32 degrees or below any time before the next business day.

Preferred Payment Date

Current residential customers who receive certain types of benefit checks out of cycle with their utility bills are allowed up to ten days subsequent to the customer's regular due date to make payment without penalty. This has benefited the low-income, elderly, and unemployed customers since they are able to avoid late payment charges and, in many cases, avoid paying a deposit to the utility.

Deferred Payment Agreement

This agreement allows a customer who owes the utility for a past due bill to maintain utility service by paying the past due amount in installments over a period of four to twelve months while continuing to pay current bills as they become due. Of the customers whose service was reconnected during the winter of 2000 - 2001 and who were given a payment plan, 22 percent were allowed 6 months or longer to pay the past due amount. Depending on the outstanding amount, the amount of the current bills, and the customer's income, this rule helps many customers, but it falls short of assisting those customers who simply have utility bills that are greater than their income can afford. Commission rules do allow for reinstatement after default and renegotiation of the payment agreement if the customer's financial circumstances change for the worse.

Reconnection

This rule provides that residential customers disconnected prior to the winter heating season and those customers disconnected during the winter heating season (December 1 through March 31) may be reconnected upon the payment of one third of the amount due to the company. If financial inability to pay this amount is shown, one-fifth of the amount owed may be paid. The customer then must enter into a payment plan to pay the balance of the outstanding amount owed to the utility. It should be noted that in many cases the amounts paid to have service restored are obtained through grants from community organizations or through the Low Income Home Energy Assistance Program (LIHEAP) administered by Department of Commerce and Community Affairs.

The reconnection rule further states that this provision is available between November 1 and April 1 of the current heating season; that reconnection under this provision cannot be used in two consecutive years; that the former customer must have paid at least one third of the amount billed subsequent to December 1 of the prior year; and that the program is not available if any evidence of tampering with the meter is discovered.

As required in the "winter reconnection" rule, on or about October 1, 2000, letters were sent to 37,543 former customers statewide who, according to utility records, were not then receiving heat related utility service. A total of 5,527 former customers requested that their service be reconnected. Of these, 2,099 customers were reconnected upon payment of the total bill and 3,002 were reconnected upon payment of a portion of the past due utility bill. Reconnection requests of 426 customers were denied. The reasons for denial are categorized as follows:

- 130 former customers failed to make a required down payment;
- 265 former customers failed to pay one-third of the amounts billed since December 1, 1999;
- 7 former customers had been reconnected under this rule last year; and
- 24 former customers resided where equipment tampering or diverted utility service was detected.

The above information indicates that 32,016 former customers did not respond to the inquiries posed by the utilities. It is impossible to determine whether these households are truly without utility service and, if so, why they do not have service.

Financial Assistance:

ICC-regulated utilities participate in the Low Income Home Energy Assistance Program (LIHEAP) administered by the Department of Commerce and Community Affairs. LIHEAP provides a one-time grant to eligible low-income customers.

(4-c) an analysis of the financial impact on utilities and other ratepayers of the inability of some customers or potential customers to afford utility service, including the number of service disconnections and reconnections, and cost thereof and the dollar amount of uncollectible accounts recovered through rates.

Uncollectible expenses for utilities represent revenues billed but not received for services rendered. Efforts are made to recover such revenues, but, after a certain period of time and effort, these amounts are charged as an expense and recovered in the regular rates charged to all customers.

The level of uncollectible expense is not perceived as a significant problem at the privately-owned water and/or sewer utilities in Illinois. Therefore, no effort has been made to analyze in detail the explicit data for those utilities.

To illustrate the amount of uncollectible expense for gas and electric utilities, the years 1999 and 2000 were chosen since these are the most recent data available at the Commission. The actual amount recovered in utility rates at any one time depends on the test year chosen for the utility's last rate case. For example, if a utility utilized a 1990 test year for its last rate case, the amount of uncollectible expense approved for the test year is embodied in that utility's rates until the next rate case. However, the level of uncollectible expense for the year of the utility's most recent annual report, 2000, was chosen because that year better indicates the current level of uncollectibles.

Electric Utilities

Total Uncollectible Expense for all companies was \$56,072,517 in 2000 as compared to \$96,796,370 in 1999. This represented 0.59 percent of Total Operating Revenues of \$9,575,065,721 in 2000 and 0.99 percent of Total Operating Revenues of \$9,790,024,128 in 1999. ComEd had the largest amount of Uncollectible Expenses with \$45,822,544 in 2000 and \$86,810,818 in 1999. This represented 0.66 percent of Total Operating Revenues in 2000 and 1.28 percent in 1999. The results are shown in Table 4-1 on page 30.

Gas Utilities

Total Uncollectible Expense for all companies was \$46,162,983 in 2000 as compared to \$37,725,249 in 1999. This represents 1.10 percent of Total Operating Revenues of \$4,213,250,721 in 2000 and 1.22 percent of Total Operating Revenues of \$3,098,187,073 in 1999. Peoples had the largest amount of Uncollectible Expenses with \$23,034,343 in 2000 and \$20,682,199 in 1999. This represented 1.96 percent of Total Operating Revenues in 2000 and 2.30 percent in 1999. The results are shown in Table 4-2 on page 31.

Table 4-1
Illinois Electric Utilities
Comparison of Uncollectible Expense to Total Revenues
2000-1999

Electric Utilities	Uncollectibles		Revenues		Percent Uncollectibles to Total Revenues	
	2000	1999	2000	1999	2000	1999
CILCO.	999,996	733,616	398,973,019	372,892,375	0.25%	0.20%
AmerenCIPS	2,554,031	2,700,504	696,194,946	743,812,439	0.37%	0.36%
ComEd	45,822,544	86,810,818	6,970,728,656	6,766,892,026	0.66%	1.28%
Illinois Power	5,695,336	5,484,751	1,192,082,770	1,598,736,950	0.48%	0.34%
Interstate Power *	75,059	18,946	18,509,903	18,596,993	0.41%	0.10%
MidAmerican *	418,569	384,692	124,413,393	123,890,374	0.34%	0.31%
Mt. Carmel	11,828	26,323	9,723,139	9,637,311	0.12%	0.27%
South Beloit	62,417	123,327	11,695,507	10,917,245	0.53%	1.13%
AmerenUE *	432,737	513,392	152,744,388	144,648,415	0.28%	0.35%
Total	56,072,517	96,796,370	9,575,065,721	9,790,024,128	0.59%	0.99%

* Illinois Uncollectible Expenses are a ratio of System-wide Uncollectible Expenses.

Table 4-2
Illinois Gas Utilities
Comparison of Uncollectible Expense to Total Revenue
2000-1999

Gas Utilities	Uncollectibles		Revenues		Percent Uncollectibles to Total Revenues	
	2000	1999	2000	1999	2000	1999
CILCO	999,996	733,616	251,881,076	189,631,609	0.40%	0.39%
AmerenCIPS	546,000	703,800	176,771,176	132,646,258	0.31%	0.53%
Consumers Gas	19,846	17,788	5,849,580	3,985,043	0.34%	0.45%
Illinois Gas	38,973	27,349	11,402,437	7,621,034	0.34%	0.36%
Illinois Power	2,803,895	2,358,455	393,536,213	304,369,364	0.71%	0.77%
Interstate Power *	3,391	4,453	4,977,385	3,896,382	0.07%	0.11%
MidAmerican *	305,487	306,122	65,564,075	47,894,085	0.47%	0.64%
Mt. Carmel	7,217	9,872	3,063,122	2,445,470	0.24%	0.40%
North Shore	985,595	724,577	197,957,612	145,730,271	0.50%	0.50%
Nicor Gas	16,578,000	11,769,998	1,883,739,408	1,326,218,896	0.88%	0.89%
Peoples Gas	23,034,343	20,682,199	1,173,213,421	901,183,506	1.96%	2.30%
South Beloit	69,584	60,212	5,624,867	4,984,311	1.24%	1.21%
AmerenUE *	216,421	101,329	18,836,458	12,190,813	1.15%	0.83%
United Cities *	554,235	225,479	20,833,891	15,390,031	2.66%	1.47%
Total	46,162,983	37,725,249	4,213,250,721	3,098,187,073	1.10%	1.22%

* Illinois Uncollectible Expenses are a ratio of System-wide Uncollectible Expenses.

CONSUMER EDUCATION ACTIVITIES

Customer Choice—"Plug In Illinois"

Section 16-117 of the Public Utilities Act, the Illinois Electric Service Customer Choice Rate and Rate Relief Law of 1997, restructures the state's electric utility industry. It requires the Illinois Commerce Commission to maintain a consumer education program to provide residential and small commercial retail customers with information to help them understand their service options, rights, and responsibilities. In accordance with the law, the ICC formed a working group in July 1998 consisting of representatives of the investor-owned utilities, alternative retail electric suppliers, consumer organizations, and ICC staff to develop the information. To meet the mandate, the working group developed a competitively-neutral brochure and bill insert for small commercial retail customers and for residential customers and made recommendations for the consumer education plan's implementation. The Commission approved the materials for small commercial retail customers in March 1999 and approved updates to the bill insert October 2000. This year the Working Group developed a bill insert and brochure for residential customers, which the Commission approved in November 2001.

Because the law provides for a phased-in schedule for customer choice, this year's efforts continued to target the approximate 500,000 non-residential customers eligible December 31, 2000. Advertising, grassroots, and media relations efforts that began toward the end of 2000 continued through the early part of 2001. Advertisements in trade publications, newspapers, and radio were placed to make business customers aware of the availability of information from the ICC and the ICC's web site. Trade publication and business organization on-line advertising and web site links further served to educate customers regarding the availability of information on electric choice. The brochures continued to be made available through the ICC's toll-free phone number, the Plug In Illinois electric restructuring web site, utilities, and other organizations throughout the year.

Various news releases generated media coverage in business trades, daily and weekly newspapers, and news wire services earning nearly 3.2 million impressions throughout Illinois. An audio news release resulted in over 3 million impressions statewide through a variety of radio formats, often including interviews with ICC spokespersons. A public service announcement earned an estimated 1.3 million impressions.

Grassroots outreach included a wide range of activities, including strategic linking from Web sites, placing articles in association newsletters and magazines, placements on the Web site, banner ads and countdown boxes on Web sites, brochure and video distribution through office and membership meetings, and speaking engagements. Materials were presented at the Governor's Small Business Summit in January and at various speaking engagements and other business group events throughout the year. ICC Chairman Richard Mathias and Executive Director Charlie Fisher addressed groups at the annual Business Day event. Other business groups who received member education assistance during the year included Illinois Retail Merchants Association, Illinois Manufacturing Association, Illinois Chamber of Commerce, Chicagoland Chamber of Commerce, Cosmopolitan Chamber of Commerce, Chicago Urban League, Springfield Urban League, The Illinois Municipal League (IML), Illinois Food Retailers Association, Illinois Petroleum Marketers Association, and others. Grassroots outreach activities provided communications reach to an estimated 4.7 million members through partnerships with major Illinois business organizations.

The ICC Plug In Illinois web site contains an overview of the electric service restructuring and customer choices, the brochure content in text form as well as the brochure and bill insert in downloadable formats, a timeline, eligibility and lottery information, a list of suppliers (both certified and pending), frequently asked questions, and other information. It also includes e-mail links for comments, questions, and complaints and a survey box for users to indicate if they found the web site helpful. The web site continues to be updated with new and additional information, including ARES/supplier changes, as needed, to enhance its effectiveness.

This year the Plug In Illinois web site has recorded nearly 15,000 visitors to the site. A short survey is included on the web site as well, with 77% of respondents indicating that the site was helpful. Comments received through the year also indicated that users found the site helpful in terms of finding information as well as locating additional resources.

A survey was conducted in April 2001 interviewing 250 small retail commercial customers statewide to assess the effectiveness of the consumer education program. Highlights of the survey are:

- Most respondents have heard at least “a little” about the restructuring of the Illinois electric utility industry.
- Nearly two-thirds have heard or read something regarding the benefits of choosing an alternative supplier.
- Most respondents indicate they understand their choices
- More than a third of respondents are aware that additional information about electric service restructuring is available from Illinois Commerce Commission.
- Interest in receiving additional information about choices for electric power is high

Approximately 5,000 brochures and 500 bill inserts were distributed during the year 2001. Distribution channels included the ICC web site, ICC toll-free number, utilities, ARES, and other organizations.

SECTION 5

**Implementation of
the Commission's
Statutory
Responsibilities**

(5) A detailed description of the means by which the Commission is implementing its new statutory responsibilities under this Act, and the status of such implementation, including specifically:

(5-a) Commission reorganization resulting from the addition of an Executive Director and hearing examiner qualifications and review.

During 2001, there were no organizational changes resulting from statutory responsibilities. Various changes made since the passage of the new Public Utilities Act have been reported in previous Commission annual reports. Ongoing organizational changes are reported on page 5.

(5-b) Commission responsibilities for construction and rate supervision, including construction cost audits, management audits, excess capacity adjustment, phase-ins of new plant and the means and capability for monitoring and reevaluating existing or future construction projects.

CONSTRUCTION AUDITS

Statutory Requirements

Section 8-407(b) and 9-213 of the 1986 Public Utilities Act grants the Commission the authority to conduct construction audits. Pursuant to Section 8-407(b), the Commission, after granting a certificate of public convenience and necessity for the construction of a new electric generating facility, is granted the authority to perform construction cost audits at any time during construction whenever the Commission has cause to believe that such an audit is necessary or beneficial to the efficiency or economy of construction.

Section 9-213 requires the Commission to perform an audit of the cost of new electric utility generating plants and significant additions to electric utility generating plants to determine if the cost is reasonable prior to including such construction costs in rate base.

Section 8-407(b) and 9-213 both grant the Commission the authority to engage independent consultants to perform these audits. If a construction audit is performed by an independent consultant, the cost will be borne initially by the utility, but shall be recoverable as an expense through normal ratemaking procedures.

Commission Responsibilities

In order to comply with the Public Utilities Act, the Commission must monitor the major construction activities of all electric utilities within the state to assure that such construction is efficient and economical. The Commission is also required (Sec. 8-407(a)) to reevaluate the propriety and necessity at least every two years of each certificate of necessity issued to the construction of a new electric generating facility. In order to comply with the above responsibilities, the Commission has the authority to conduct construction cost audits.

Section 8-407(b) Activities

No activities were required during 2001.

Section 9-213 Activities

No activities were required during 2001.

MANAGEMENT AUDITS

Statutory Requirements

The Commission has authority under Section 8-102 of the Public Utilities Act to conduct management audits of public utilities. The Commission may choose to conduct the audits with its own staff or it may contract with independent consultants to perform the management audits. Prior to initiating an audit of a utility, the Commission must determine that reasonable grounds exist to believe an audit is necessary or cost-beneficial.

The statute allows for the costs associated with the use of independent consultants to be borne by the utilities with recovery provided through the normal ratemaking process.

Commission Responsibilities

Prior to initiating a management audit or investigation of a utility, the Commission must have "reasonable grounds to believe that such audit or investigation is necessary to assure that the utility is providing adequate, efficient, reliable, safe, and least-cost service and charging only just and reasonable rates therefor, or that such audit or investigation is likely to be cost beneficial in enhancing the quality of such service or the reasonableness of rates therefor." The Commission shall "issue an order describing the grounds for such audit or investigation and the appropriate scope and nature of such audit or investigation."

No auditing activities were undertaken during 2001.

Excess Capacity and Used and Useful

Section 9-215 of the Public Utilities Act gives the Commission the "power to consider, on a case by case basis, the status of a utility's capacity and to determine whether or not such utility's capacity is in excess of that reasonably necessary to provide adequate and reliable electric service". The Commission is also authorized to make adjustments to rates if a finding of excess capacity is made. This section conditions this authority for generating units whose construction programs started prior to the effective date of the current Act, January 1, 1986. That is, for generating units whose construction started prior to the effective date of the current Act, the Act requires that a determination of excess capacity or utility plant used and useful will be made from that which is appropriate under prior law.

No activities were required during 2001.

RATE MODERATION PLAN

The Public Utilities Act authorizes the Commission to consider the adoption of a rate moderation plan which would lessen rate impacts associated with new power plants coming into service.

During 2001, no new power plants were placed in service in Illinois. As a result, the Commission did not use its authority to adopt a rate moderation plan.

COST-BASED RATES

The Public Utilities Act considers cost-based rates an important component of equity for ratepayers. Specifically, the act states that the cost of supplying public utility services should be allocated to those

who cause the costs to be incurred [Sec. 1-102(d)(iii)]. The need to base rates on costs has increased as the utility environment becomes more competitive. A close relationship between rates and costs will discourage uneconomic bypass of the utility system by ratepayers. Uneconomic bypass is costly to the utility, ratepayers and society as a whole.

The Commission made consistent progress towards the establishment of cost-based rates in utility rate cases conducted over the years 1993-2001.

A total of twelve gas and three electric rate cases were filed during this period. Additionally, with the passage of the Electric Service Customer Choice and Rate Relief Law of 1997, nine electric utilities filed cases for delivery services implementation and eight electric utilities filed cases for metering services unbundling. The gas cases were filed by Iowa-Illinois gas and Electric (IIGE) which is now Mid-American Energy Company, Illinois Power Company (IP), Central Illinois Light Company (CILCO), Peoples Gas Light and Coke Company (Peoples), North Shore Gas Company (North Shore), Northern Illinois Gas Company (NI-Gas), Mt. Carmel Public Utility Co. (Mt. Carmel), Illinois Gas Company (IGC), Central Illinois Public Service Company (AmerenCIPS), Union Electric Company (AmerenUE), United Cities Gas Company, and Consumers Gas Company. Electric rate cases were filed by IIGE, Commonwealth Edison Company (ComEd) and Mt. Carmel. The electric delivery service cases were filed by ComEd; IP; CIPS; UE; Mt. Carmel; MidAmerican; CILCO; South Beloit Water, Gas and Electric Company (SBWGE); and Interstate Power Company (IPC). Additionally, except for Mt. Carmel, the same electric companies filed for unbundling of delivery services.

All nine electric utilities were mandated by the Public Utilities Act to provide optional real-time pricing rates for residential customers.

The Public Utilities Act also required that AmerenCIPS, and AmerenUE compare their bundled residential rates to the average rate of a group of Midwest utilities. If the Midwest average was lower than the rate of each of these Illinois utilities, the Illinois utility was required to reduce its residential rates. CILCO was also required to reduce its rates.

Commission Actions to More Fully Implement Cost-Based Rates: Electricity

In the IIGE electric rate case (Docket Nos. 92-0292, 92-0357 Consolidated), the Commission accepted an interclass revenues allocation that reduced cost subsidies by 25 percent according to embedded costs and a more cost-based rate design.

In the ComEd case (Docket No. 94-0065), the Commission moved towards cost-based rates based on the equal percentage of marginal costs approach and individual rate elements for all rate classes closer to marginal costs.

The delivery services tariff cases to establish non-residential rates for delivery services involved all nine electric utilities:

CIPS and UE (Docket No. 99-0121)
MidAmerican Energy Company (Docket Nos. 99-0122 & 99-0130)
Cilco (Docket Nos. 99-0119 & 99-0131 cons.)
ComEd (Docket No. 99-0117)
IP (Docket Nos. 99-0120, 99-0134 & 99-0140 cons.)
IPC and SBWGE (Docket Nos. 99-0124, 99-0125, 99-0132 & 00-0133 cons.)
Mt. Carmel (Docket No. 99-0116)

Each delivery service proceeding consisted of taking a test year revenue requirement, which was made up of transmission, distribution and generation components, and separating these components out for cost of service purposes. The generation component will be market based, while the transmission component will be regulated by FERC. The goal of delivery services was to have cost-based delivery service rates, which represent the distribution portion of the electric system. The Commission approved

cost-based rates for each utility. Approval of cost-based rates helps facilitate the next stage of deregulation, which is unbundling. Competition for unbundled services will largely depend on cost-based delivery service rates.

In the unbundling cases (Docket No. 99-0013), all utilities, except Mt. Carmel, filed tariffs for the unbundling of metering services. Staff reviewed those filings, and the Commission Order was issued on October 4, 2000, and became effective on January 1, 2001. Cost-based rates for unbundled delivery services will be a prime factor in initiating competition in Illinois.

Delivery services tariffs for all residential customers must become effective no later than May 1, 2002. As part of their plans for delivery services, AmerenCIPS and AmerenUE filed new residential delivery services tariffs and also filed updated non-residential delivery services tariffs in December, 2000. The other seven utilities filed their proposed rates in 2001 and dockets are ongoing to establish delivery services rates for their residential classes, as well as new non-residential delivery services rates.

All nine electric utilities were mandated by the Public Utilities Act to provide rates for residential customers based on real-time pricing. The appropriate filings were made and the rates became effective on October 1, 2000.

The Public Utilities Act also required that AmerenCIPS, and AmerenUE compare their bundled residential rates to the average rate of a group of Midwest utilities. If the Midwest average was lower than the rate of each of these Illinois utilities, the Illinois utility was required to reduce its residential rates on October 1, 2000. The comparison indicated that AmerenCIPS and AmerenUE were not required to reduce their bundled residential rates on that date.

According to the Public Utilities Act CILCO was required to reduce its bundled residential rates by 2% on October 1, 2000. The Public Utilities Act also required that ComEd reduce its bundled residential rates by 5% on October 1, 2001.

Commission Actions to More Fully Implement Cost-Based Rates: Gas

In the IIGE case (Docket Nos. 92-0292, 92-0357 Consolidated), the Commission determined that interclass cost subsidies should be reduced subject only to the constraint that no customer class receive a total revenue increase of more than 10% and that individual rate elements should be more closely aligned to costs.

In the IP case (Docket No. 93-0183), the Commission adopted an allocation of base revenues which effectively eliminated interclass subsidies at then-current rate levels.

In the CILCO case (Docket No. 94-0040), the Commission decision was to more closely align rates with costs through a 75% reduction in interclass subsidies and more cost-based rate designs.

In the North Shore and Peoples cases (Dockets no. 95-0031 and 95-0032), the Commission adopted the Average and Peak allocator method. The Commission also made further progress towards cost-based interclass revenue allocations.

In the Nicor Gas case (Docket No. 95-0219), the Commission again adopted the Average and Peak allocator method. The Commission adopted a revenue allocation that significantly reduced interclass subsidies and initiated cost-based rate designs.

In the Mt. Carmel gas and electric case (Docket No. 97-0513), the Company performed a cost of service study (COSS), as did Staff. The Commission concluded that rates agreed to by the parties made movement towards subsidy elimination, while recognizing customer impact concerns.

In the Illinois Gas Company case (Docket No. 98-0298), the Company submitted an embedded cost of service study utilizing GasWorks 1.0, which is a COSS program designed by the Commission Staff. Staff

proposed a few minor allocation changes, which the Company accepted. Staff proposed and the Commission accepted Staff's interclass allocation methodology, which eliminated cross-subsidization between rate classes. Staff and the Company agreed to class rate design which made movement towards intraclass subsidy elimination, while recognizing customer impact concerns.

In the AmerenCIPS and AmerenUE cases (Docket Nos. 98-0545 and 98-0546), both the Company and Staff provided cost of service studies. Staff however, proposed using the average and peak allocation method for allocating capacity-related transmission and distribution costs. The Company accepted Staff's COSS and interclass revenue allocation methodologies in the rebuttal stage of the proceeding. In both cases, Staff proposed basing the customer charge for the general delivery service rates on meter capacity. This resulted in two customer charges, for both AmerenCIPS and AmerenUE' general service rate class, compared to the Company's proposal of one rate. Staff stated that since there is such a diverse group of customers with substantially different sized meters in the classes, separating them by meter capacity will further eliminate intra-class subsidies. The Company and Commission agreed. The Company and Staff agreed to a rate design methodology that made considerable movement towards intra-class subsidy elimination. All parties agreed that full movement toward fully cost-based rates would cause undue negative customer impacts.

In the MidAmerican case (Docket No. 99-0534) the Company performed a cost of service study and based the proposed rates on cost of service. Staff of the Commission reviewed that study and presented testimony. An order was entered and the rates became effective in July 2000.

In the United Cities case (Docket No. 00-0282), the Company accepted the COSS and the rate design proposed by Staff. The Staff-designed rates included increased costs in the customer charges that more properly reflect the true cost of service.

In the Consumers Gas case (Docket No. 00-0618), which was filed in September 2000, the Company performed a cost of service study and based the proposed rates on cost of service. Commission Staff reviewed that study and presented testimony. An order was entered in June 2001.

MERGERS

On March 22, 2001, Interstate Power Company filed a Notice of Reorganization pursuant to Section 16-111(g) to merge with IES Utilities Inc. IES would be the surviving corporation and, upon consummation of the merger, would be renamed Interstate Power and Light Company.

On June 30, 2000, Illinois American Water Company, Citizens Utilities Company of Illinois, and Citizens Lake Water Company filed a joint application for approval of merger and reorganization among other things under Sections 6-102, 7-101, 7-204, and 7-204(b), 7-204(c), by which Illinois American would purchase the assets of Citizens Utilities of Illinois and certain other business assets related to its water and wastewater business. The order was entered May 15, 2001.

On December 1, 2000, Utilities, Inc., Holiday Hills Utilities, Inc. and Community Service Corporation filed for approval of a Purchase Agreement in which Holiday Hills Utilities would acquire the assets of Community Service Corporation and continue the business of Community Service in a substantially unchanged manner. Testimony was offered, hearings were held, and an order was entered May 23, 2001.

On January 22, 2001, Utilities, Inc., Westlake Utilities, Inc. and Westlake Utility Service Company filed a joint petition for approval of a Purchase Agreement in which Westlake Utilities would acquire the assets of Westlake Utility Service Company under Section 7-102 and authorize Westlake Utilities to continue the public utility business of Westlake Utilities Service Company in a substantially unchanged manner. Testimony was offered, hearings were held, and an order was entered August 8, 2001.

On February 20, 2001, Utilities, Inc., Wildwood Water Service Company, and Wildwood Utility Co. filed a Joint Petition for approval for Wildwood Water Service Company to purchase the assets of Wildwood Utility Co. and for Wildwood Water Service Company to continue the public utility business of Wildwood Utility Co. in a substantially unchanged manner. Testimony was offered, hearings were held, and a draft order was submitted to the Commission, but the case was reopened for further information on the quantification of savings to be derived from the merger.

On March 8, 2001, Powers Water Company filed a Petition pursuant to Section 7-204 for approval of a capital stock transfer reorganization. Services provided by Powers Water Company would continue in a substantially unchanged manner. Testimony was offered, hearings were held, and an order was entered July 11, 2001.

On July 3, 2001, Nuon Acquisition Sub, Inc., Utilities, Inc., and each of its 21 Illinois Operating Subsidiaries of Utilities, Inc. filed a Joint Application for approval of a proposed merger in which Nuon will be merged with, and into, Utilities, Inc. with Utilities, Inc. being the surviving corporation. The merger would result in the parent company of Nuon acquiring indirect control over the Utilities, Inc. Operating Subsidiaries. Testimony was offered, hearings were held and an Order was entered November 27, 2001 and an amended order was entered December 5, 2001.

On December 21, 2001, Illinois-American Water Company (IAWC) and Thames Water Aqua Holdings filed a Joint Applicant pursuant to Section 7-204 for approval of a proposed reorganization and change of control of Illinois-American Water Company. IAWC is a subsidiary of American Water Works (AWW) the largest publicly traded water company in the United States. Upon completion of the merger, AWW will become an operating subsidiary of Thames Water, which is headquartered in London, England. Thames Water is a subsidiary of RWE Aktiengesellschaft the third largest water/wastewater services company in the world. RWE is headquartered in Essen Germany.

ASSET TRANSFER OR SALE

On September 29, 2000, AmerenUE filed a petition for the transfer of all of its Illinois electric facilities and business to AmerenCIPS and a petition for the transfer of its Illinois gas facilities and business to AmerenCIPS under Section 7-102, 7-203, and 9-201. There was an investigation and hearing for the transfer of the Illinois electric facilities and business. On September 6, 2001, Ameren UE and AmerenCIPS filed a motion to dismiss the proceeding as the Companies had determined that they did not intend to proceed at this time. The Commission granted the motion to withdraw on October 16, 2001.

On November 30, 2001, CILCO filed notice that it intends to transfer to a subsidiary, Central Illinois Generation, Inc., substantially all of its electric generating assets together with all associated liabilities. The Commission initiated a proceeding to determine whether the proposed transfer should or should not be prohibited.

INFORMATIONAL FILINGS

The following transactions required only informational filings by the utility:

On February 20, 2001, Illinois Power filed notice that it intended to indirectly transfer certain transmission-related assets to Dynegy Midwest Generation, Inc.

On April 26, 2001, ComEd filed a "Notice of Transfer of Improved Real Estate Located in Bolingbrook, Illinois" to sell an improved warehouse located at 555 Joliet Road in Bolingbrook to McShane Corporation.

On August 17, 2001, MidAmerican Energy Company filed notice of its intent to sell its interests in real estate known as the Orion Service Center.

On October 25, 2001, ComEd filed notice that ComEd intended to receive Unicom Investments' rights, title and obligations in its Membership Interest in the Alliance Participants Administrative and Start Up Activities Company LLC (which facilitated implementation of certain infrastructure and start-up activities necessary for the formation of the Alliance Regional Transmission Organization – RTO) in exchange for the release of a portion of Unicom Investments' promissory note to ComEd related to the December 1999 ComEd fossil plant sale.

On October 30, 2001, ComEd filed notice that it intended to merge with Unicom Healthcare Management, Inc.

On November 28, 2001, ComEd filed notice of the assignment of receivables from energy conservation work performed at Fermi Lab to ABB Energy Capital L.L.C. in exchange for a cash payment.

MAJOR ACCOUNTING CASES

DST Rate Filings of ComEd, Illinois Power, MidAmerican, CILCO, Mt. Carmel, South Beloit, and Interstate Power were filed during 2001. Ameren UE and AmerenCIPS filed their DST Rate Filing in December 2000. Staff issued data requests, conducted fieldwork, and submitted testimony for all proceedings. For AmerenUE, AmerenCIPS, ComEd, Illinois Power, and MidAmerican hearings were held and briefs were submitted.

FAC and PGA Reconciliations for the year 2000 work were timely completed. Staff issued data requests, conducted fieldwork, submitted testimony, participated in the hearings process, and submitted briefs. Orders have been entered in all but two proceedings, in both of which an order is expected in the near future.

Purchased Water/Sewer Clauses and Water/Sewer Distribution Infrastructure Clauses were adopted as rules of the 83 Illinois Administrative Code. Workshops were conducted, testimony submitted, hearings held, and orders entered. The Commission has also approved an infrastructure rider for Consumers Illinois Water that will become effective January 1, 2002.

DECOMMISSIONING

On September 12, 1988, the Governor signed into law Public Act 85-1400 adding a new Section 8-508.1 to the Public Utilities Act. This required every utility owning a nuclear power plant to establish trust funds to pay for the eventual decommissioning of the plants. These trust funds have been established and are being funded. During 2001, the Commission monitored the performance of the trust funds. As of December 31, 2001, the only Illinois electric utilities that owned nuclear power plants were MidAmerican Energy and AmerenUE.

The Energy Policy Act of 1992 (EPAct) affected nuclear decommissioning trust funds in two ways. First, the corporate income tax rate that is applied to all taxable trust fund earnings was reduced to 20% beginning in 1996. The EPAct also provided for the elimination of the Black Lung Disability Trust Fund investment restrictions for qualified trust funds, thereby broadening investment options. All utilities have received authorization to invest a limited portion of their trust funds in common equity securities in order to improve the after tax returns and reduce future funding requirements from ratepayers.

Section 9-201.5 of the Public Utilities Act, which became effective January 1, 1995, authorizes an electric utility to establish a "decommissioning rate" to "reflect changes in, or additional or reduced costs of, decommissioning nuclear power plants."

In Docket No. 00-0361, the Commission authorized Commonwealth Edison to continue using its Rider 31 (Decommissioning Expense Adjustment Clause) to recover decommissioning costs each year commencing January 1, 2001 (Amended Order dated February 21, 2001). For years 2001 through 2004, Commonwealth Edison will be permitted to recover \$73 million annually in decommissioning costs. For years 2005 and

2006, Commonwealth Edison is permitted to collect up to \$73 million depending on the amount of power they purchase from the nuclear plants.

In Docket No. 00-0369 and 00-0394, the Commission approved the transfer of Commonwealth Edison's nuclear generating station assets, decommissioning trusts and wholesale marketing assets to Exelon Genco, an unregulated affiliate company.

(5-c) Promulgation and application of rules concerning ex parte communications, circulation of recommended orders and transcription of closed meetings.

The Commission's rules concerning *ex parte* communications (83 Ill. Adm. Code 200.710) and the circulation of recommended orders (83 Ill. Adm. Code 200.820) remained in effect in 2001 and were applied throughout the year. Closed meetings were transcribed verbatim as required by Section 10-102 of The Public Utilities Act.

SECTION 6

**Appeals from
Commission
Orders**

(6) A description of all appeals taken from Commission orders, findings or decisions and the status and outcome of such appeals.

This section includes only appeals either filed in 2001 or upon which a judicial decision was received in 2001. Excluded are appeals involving motor carriers, rail carriers, or other regulated transportation and all non-appeal judicial actions, such as enforcement and collection actions, employment suits, or federal administrative and judicial actions, in which the Commission may have participated as plaintiff, defendant, intervenor, or amicus.

I. APPEALS INVOLVING PUBLIC UTILITIES FILED IN 2001

A. Under the Public Utilities Act, 220 ILCS 5

<u>Description</u>	<u>No. of Appeals</u>
1. Appeals from grant or denial of certificates under Section 8-406 of the Public Utilities Act and 83 Ill Adm. Code 600	2
2. Appeal from grant or denial of rate changes under Section 9-201 of the Public Utilities Act	1
3. Appeals from revision of decommissioning expense adjustment rider under Sections 9-201.5 and 16-114 of the Public Utilities Act	9
4. Appeal from grant or denial of consumer complaints under Section 10-108 of the Public Utilities Act	1
5. Appeals from investigation and establishment of the Universal Service Support Fund under Subsection 13-301(d) of the Public Utilities Act	2
6. Appeal from determination of changes promoting statewide uniformity of delivery services and related tariffed offerings under Article XVI of the Public Utilities Act	1
7. Appeal from establishment of alternative market-based tariffs under Section 16-112 and	1

Article IX of the Public Utilities Act

8. Appeals from grant or denial of certificates under Section 16-115 of the Public Utilities Act 2

B. Under Other Utility-Related Acts

- Appeal from grant or denial of right to serve area or customer under Electric Supplier Act, 220 ILCS 30. 1

C. Status

All appeals taken in the year, 2001, are still pending except for the Section 10-108 appeal {Item 4}, the Section 13-301(d) appeals {Item 5 above}, and the Section 16-112 /Article IX appeal {Item 7 above}, which were dismissed. {See Section II. A. 1. below.}

II. APPEALS DECIDED IN 2001

A. Under the Public Utilities Act, 220 ILCS 5

1. Cases dismissed without opinion and with no further action expected.

<u>Description</u>	<u>No. of Cases</u>
a. Appeal from grant or denial of consumer complaints under Section 10-108 of the Public Utilities Act	1
b. Appeals from investigation and establishment of the Universal Service Support Fund under Subsection 13-301(d) of the Public Utilities Act	2
c. Appeal from establishment of alternative market-based tariffs under Section 16-112 and Article IX of the Public Utilities Act	1

2. Cases in which decisions were rendered either by Opinion of the Court or by an Order issued under Supreme Court Rule 23. (A Rule 23 Order decides a case on its merits, but has limited effect as precedent on other cases.)

- (a) A. Finkl and Sons Co., et al. v. Illinois Commerce Commission, et al.
Illinois Appellate Court, Fourth District
Docket Nos. 4-00-0570 & 4-00-0596 (cons.)

**Appeals from establishment of alternative
market-based tariffs under Section 16-112 and
Article IX of the Public Utilities Act**

Commonwealth Edison Company ("ComEd") sought to establish, on an expedited basis, a market-based alternative tariff to the neutral fact-finder process for determining market value under Section 16-112 of the Electric Service Customer Choice and Rate Relief Law of 1997, 220 ILCS 5/16-112. By an interim order, the Illinois Commerce Commission ("Commission") passed the tariff to file, but conditioned its approval by providing further hearings to consider alterations to the tariff before the market-based alternative tariff became permanent. A number of industrial electric consumers, known collectively as the Illinois Industrial Energy Consumers or IIEC, and the People of the State of Illinois petitioned for the review of the Interim Order of the Commission.

There are two preliminary matters to note. ComEd had argued that the Court lacked jurisdiction to hear these appeals. The Court in its Opinion as well as in an early order ruled that it had jurisdiction to hear these appeals. By the time this case was argued, the Commission had entered its final order in this docket. The parties had agreed that, indeed, the appeals from the Interim Order were now mooted by the final order. The Court found that the issues were under the public interest exception to the mootness doctrine and, therefore, entered its opinion.

On appeal, the petitioners argued that (1) the April 2000 order was not a "pass-to-file decision" pursuant to section 9-201 of the Public Utilities Act (Act) (220 ILCS 5/9-201 (West 2000)); (2) the ICC did not properly waive the 45 days' notice requirement; (3) the ICC failed to provide a formal hearing; (4) the ICC failed to comply with its own regulations; (5) the April 2000 order is not supported by substantial evidence and lacks sufficient findings and analysis; (6) the tariffs allowed to go into effect under the April 2000 order do not comply with section 16-112 of the Act (220 ILCS 5/16-112 (West 2000)); (7) the ICC failed to find that ComEd's rate changes were "just and reasonable" pursuant to section 9-201(c) of the Act (220 ILCS 5/9-201(c) (West 2000)); and (8) ComEd failed to meet its burden of proving that the rate changes were "just and reasonable."

The Court found that ComEd's tariff filing and the Commission's action thereon were proper, meeting all statutory and regulatory requirements. The Court, therefore, affirmed the Commission's Interim Order on September 26, 2001, by written opinion.

(b) Abbott Laboratories, Inc., et al. v. Illinois Commerce Commission, et al.

Illinois Appellate Court, Fourth District
Docket Nos. 4-00-0922 and 4-01-0034 (cons.)

**Appeals from grant or denial of transfer of generating
or other assets pursuant to Section 16-111(g) of the
Public Utilities**

Commonwealth Edison Company (ComEd), pursuant to Subsection 16-111(g) of the Electric Service Customer Choice and Rate Relief Law of 1997 ("Law"), 220 ILCS 5/16-111(g), sought to transfer its nuclear generating plants, along with related assets and obligations, and its wholesale marketing business to an affiliate, Exelon Genco. Pursuant to the restricted authority of Subsection 16-111(g) of the Law, *supra*, the Illinois Commerce Commission ("Commission") approved the transfer of ComEd's assets. A number of industrial electric consumers, known collectively as the Illinois Industrial Energy Consumers or IIEC, and the City of Chicago took these appeals from the Order of the Commission.

The issues on appeal were whether (1) the Appellate Court had jurisdiction of these review proceedings and (2) the Commission properly approved the transfer of ComEd's nuclear decommissioning trust funds under Subsection 16-111(g) of the Law, *supra*, and under Section 8-508.1 of the Public Utilities Act, 220 ILCS 5/8-508.1.

The jurisdictional issue was whether the Petitions for Review were timely filed. The Commission had issued a notice of Commission action on three applications for rehearing. A week later, the Commission issued an amended notice of Commission Action, correcting its ruling on the third

application, but leaving the ruling on the two Petitioners' applications for rehearing unchanged. The Petitioners had filed their Petitions for Review on the last day from the amended notice on rehearing. The Appellate Court held that the Petitions for Review were timely filed.

On the second issue, the Appellate Court found that nuclear decommissioning trust funds are assets of ComEd, both on the facts and as a matter of law. As assets, the funds are transferable under Subsection 16-111(g) of the Law, *supra*. The Appellate Court further held that Section 16-114.1 of the Law, 220 ILCS 5/ 16-114.1, had no application to this case.

On October 4, 2001, in a Rule 23 order, the Illinois Appellate Court affirmed the Commission's decision, approving the transfer of assets to Exelon Genco. IIEC's petition for rehearing was denied by the Appellate Court on December 18, 2001.

(c) Commonwealth Edison Co. v. Illinois Commerce Commission, et al.

Illinois Appellate Court, Second District
Docket Nos. 2-00-0275 and 2-00-0375 (cons.)

**Appeals from establishment of delivery service
implementation plans and delivery service tariffs
under Sections 16-105 and 16-108 of the Public
Utilities Act**

On March 1, 1999, Commonwealth Edison Company ("ComEd") filed with the Commission for approval of (1) tariffs for the provision of delivery services and other tariffs, (2) coordinating revisions to existing tariff sheets, and (3) its nonresidential open access implementation plan. The Commission proceedings involve the approval of an implementation plan and tariffs for the provision by ComEd of delivery services to nonresidential customers who are eligible for delivery services beginning October 1, 1999, and of other related tariff and tariff amendments under Sections 16-105 and 16-108 of the Electric Service Customer Choice and Rate Relief Law of 1997 ("Law"), 220 ILCS 5/16-105 and 16-108. ComEd on review challenged two aspects of the Commission decision.

On June 6, 2001, the Appellate Court in a written opinion affirmed the Commission Order in part and reversed in part and remanded the cause for further proceedings.

First, the Court reversed the Commission for rejecting ComEd's nine *pro forma* adjustments as incompetent evidence under the delivery service standards. The standard did not state that nonconforming evidence would be rejected. The Court ordered the Commission to consider the evidence, while offering no opinion on the weight to be given such evidence. Second, the Court affirmed the Commission's decision to use "embedded costs" instead of "avoided costs" to determine the credit for customers whose service providers choose to use ComEd for their billing, *i.e.*, a single billing option. The Court held that the use of embedded costs is not contrary to the requirements of Subsection 16-108 (c) of the Law, *supra*.

(d) Commonwealth Edison Co. v. Illinois Commerce Commission, et al.

Illinois Appellate Court, Second District
Docket No. 2-00-1397

**Appeal from unbundling of delivery services
under Section 16-108 of the Public Utilities Act**

The Illinois Commerce Commission ("Commission") had been investigating the unbundling of delivery services in the electric industry. Pursuant to an interim order, Commonwealth Edison Company ("ComEd") and most other electric public utilities in Illinois were directed to file proposed embedded-cost-based tariffs for unbundled delivery services. The Commission determined the just and reasonable prices, terms and conditions for unbundled delivery services and approved the tariffs of the electric utilities as modified by the Commission. ComEd sought review of certain aspects of the tariffs as approved by the Commission. On October 11, 2001, in a Rule 23 Order, the Appellate Court affirmed the Commission Order in part and reversed in part and remanded the cause for further proceedings.

The Court reversed the Commission for rejecting certain of ComEd's evidence as incompetent under the delivery service standards. The Court affirmed the Commission in its determination that Subsection 16-108 (c) of the Electric Service Customer Choice and Rate Relief Law of 1997 ("Law"), 220 ILCS 5/16-108(c), allows the recovery of unbundled service implementation costs only from customers electing to use such unbundled services. Lastly, the Court affirmed the Commission's decision to use "embedded costs" instead of "avoided costs" to determine the unbundled delivery service tariffs, finding that the embedded costs is not contrary to the requirements of Subsection 16-108 (c) of the Law, *supra*.

(e) Illinois-American Water Co. v. Illinois Commerce Commission

Illinois Appellate Court, Third District
Docket No. 3-00-0444

**Appeal from grant or denial of merger of public
utility corporations under Section 7-204 and other
provisions of the Public Utilities Act**

Illinois-American Water Company ("Illinois-American") sought, *inter alia*, to recover certain of its merger costs from its customers, pursuant to Subsection 7-204 (c) of the Public Utilities Act, 220 ILCS 5/7-204(c). The Commission had denied recovery of the asserted merger costs from Illinois American's customers. On review, Illinois-American asserted three grounds for reversal: departure from past Commission practice, insufficient findings for review, and denial of equal protection under the U.S. Constitution.

On May 18, 2001, the Illinois Appellate Court affirmed the Commission's decision in a written opinion. {On July 12, 2001, the Appellate Court made various nonsubstantive changes to the opinion.}

Noting that Section 7-204 of the Act, *supra*, is a new provision, the Court found that the decision herein was consistent with other recent Section 7-204 decisions. The Court further found that the cost items which had been rejected had sufficient findings for review and were properly rejected as being transactional merger expenditures rather than costs related to service to the public. Finally, the Court found that the Commission was applying Section 7-204 of the Act, *supra*, in a consistent manner and, therefore, Illinois-American was unable to prove the disparate treatment necessary for an Constitutional equal protection challenge.

(f) Neighborhood Learning Networks, Inc. and Donald S. Samuelson & Associates, Inc. v. Illinois Commerce Commission, et al.

Illinois Appellate Court, First District
Docket No. 1-00-0028

**Appeal from grant or denial of merger of public
utility corporations under Section 7-204 and other
provisions of the Public Utilities Act**

This is an appeal from the Commission's order granting the reorganization of Illinois Bell Telephone Co. d/b/a Ameritech Illinois and Ameritech Illinois Metro, Inc. resulting from the merger of SBC Communications, Inc. and Ameritech Corporation. On March 2, 2001, in a Rule 23 Order, the Illinois Appellate Court affirmed the Commission's order.

The first issue raised was a claim that the Commission violated *ex parte* communication prohibitions. The Court held that communications between the Commission and its special legal assistant from its Office of General Counsel are not *ex parte* communications.

The next argument contended that the Commission order failed to meet the requirement of Section 7-204(c) (i) of the Act, 220 ILCS 5/ 7-204 (c) (i), claiming that the Commission order did not state a precise amount of savings. The Court held that this argument was inconsistent with the plain language of the statute and ignores the underlying practical considerations of the Commission's final order. The Commission's decision to deal with the actual, rather than the estimated, savings was found to be reasonable, lawful, and supported by substantial evidence.

Certain arguments of the Petitioners concerning the claimed violations of the federal Telecommunications Act of 1996, 47 USC 254, and of public policy were held waived and meritless.

Petitioners' argument that the Commission order failed to hold SBC/Ameritech to its burden of showing no diminishment of its ability and duty to serve disadvantaged markets was found to be without merit. The Court held that these arguments were a misconstruction of the Commission order and a misinterpretation of the Public Utilities Act. The Commission had addressed the various service concerns "by a plethora of conditions" in its final order. The Court found no support for the claimed public policy arguments of the Petitioners.

B. Under other Utility Related Acts

1. Cases dismissed without opinion and with no further action expected.

<u>Description</u>	<u>No. of cases</u>
Appeal to Illinois Appellate Court from arbitration decision rendered under 47 USC 252 (b)	1

2. Cases in which decisions were rendered.

None

SECTION 7

**Studies and
Investigations
Required by
State Statutes**

(7) A description of the status of all studies and investigations required by this Act, including those ordered pursuant to Sections 4-305, 8-304, 9-242, 9-244, and 13-301 and all such subsequently ordered studies or investigations.

Section 4-305: Emission Allowance Reports

Section 4-305 directs the Illinois Commerce Commission to collect from each utility and each affiliated interest of a public utility owning an electric generating station, on a quarterly basis, information relating to the acquisition or sale of sulfur-dioxide emission allowances, as defined in Title IV of the Federal Clean Air Act Amendments of 1990. The Commission is also directed to include such information in each of its annual reports, beginning with the 1993 annual report due January 31, 1994.

As of December 31, 2001, the Commission received quarterly reports for the fourth quarter 2000 through the third quarter 2001 from four public utilities with generating units affected by the Clean Air Act: Alliant (Interstate Power), AmerenUE, Central Illinois Light Company, and MidAmerican Energy Company.

The Commission received quarterly reports for the fourth quarter 2000 through the third quarter 2001 from Electric Energy Inc.¹, which owns generating units affected by the Clean Air Act and is an affiliate of the following public utilities: Illinois Power, AmerenUE, and AmerenCIPS.

The Commission received quarterly reports for the fourth quarter 2000 through the third quarter 2001 from Rocky Road Power LLC², and Dynegy Midwest Generation, Inc.³ Both companies are affiliates of Illinois Power and both companies own generating units affected by the Clean Air Act.

The Commission received quarterly reports for the fourth quarter 2000 through the third quarter 2001 from Ameren Energy Generating Company⁴, which owns generating units affected by the Clean Air Act and is an affiliate of AmerenCIPS and AmerenUE.

All utilities and affiliated interests subject to the Section 4-305 reporting requirements are currently in compliance. Appendix C contains the fourth quarterly report for 2000 and the first three quarterly reports for 2001 for all reporting entities. Because the forms require the reporting entities to record a running total of all allowance allocations and transactions, the third quarter reports contain all information regarding the allocations and transactions that have occurred during the first three quarters of 2001.

Section 8-304: Estimated Billing Practices

Under this section, the Illinois Commerce Commission is required to perform a comprehensive study of estimated billing practices and policies of the major regulated public utilities providing natural gas and/or electric services.

¹ Electric Energy Inc is owned by Kentucky Utilities Company (20%), a subsidiary of Powergen plc, AmerenUE (40%), AmerenCIPS (20%), and Dynegy (20%). Ameren owns AmerenUE and AmerenCIPS. Dynegy owns Illinois Power.

² Rocky Road Power LLC is owned by Dynegy (50%) and by NRG Energy Inc (50%), a subsidiary of Xcel Energy Inc.

³ Dynegy Midwest Generation Inc is owned by Dynegy.

⁴ Ameren Energy Generating Company is owned by Ameren.

For purposes of this study, the Commission selected the following major regulated public utilities providing natural gas and/or electric services to Illinois households:

Central Illinois Light Company
AmerenCIPS
Commonwealth Edison Company
Illinois Power Company
MidAmerican Energy Company
Northern Illinois Gas Company
Peoples Gas Light & Coke Company
AmerenUE

These eight utilities comprise over 95 percent of the regulated utility service sales to residential customers in Illinois.

The companies have provided such information as a three year history of the total number of estimated bills broken down by customer class, time of year, geographic location, customer group, and frequency of consecutively estimated bills; the reasons for estimated billing; the costs of relocating and reading meters; the methods or formulas used for establishing the amounts of estimated bills; and the programs or instruments used to minimize the frequency of estimated bills. An analysis of the data received has been conducted by Commission staff.

Section 8-403: Cogeneration/Small Power Production

Section 8-403 states that the Commission shall conduct a study to encourage the full and economical utilization of cogeneration and small power production. In addition to the independent power generation aspect of the study, the Commission is also required to examine the wheeling of electricity between governmental agencies.

This study was completed in 1987. No activities were required in 2001.

Section 8-405.1: Feasibility of Wheeling in Illinois

Section 8-405.1 directs the Commission, in cooperation with the Illinois Department of Energy and Natural Resources, to investigate the major economic and legal issues surrounding the wheeling of electricity in Illinois and to report the results of its investigation to the General Assembly. In December 1987, the Commission submitted the report titled *Electric Wheeling in Illinois* to the General Assembly.

Section 9-202: Temporary Rate Increase

On October 1, 1987, 83 Ill. Adm. Code 330 became effective. Among other things, Commission rules set the necessary conditions for a temporary rate increase and provided for refunds with interest should the temporary rate increase granted exceed the permanent rate increase granted.

Section 9-214: Study of CWIP

The study was completed and was sent to the General Assembly on December 29, 1988. Please see the Commission's 1992 annual report, page 56, for details.

Section 9-216: Cancellation Costs

There are no plants under construction nor any requests for authority to construct new plants pending before the Commission and given that there is no due date for either the initiation or completion of this rulemaking, the Commission will initiate rulemaking as soon as practical, given the Commission's current workload and resources.

Commonwealth Edison "Rehab" Program Monitoring

In the summers of 1999 and 2000 Commonwealth Edison Company experienced several highly visible outages as a result of failures in the transmission and distribution infrastructure. These outages led to the Commission's retention of experts to investigate specific outages and to address issues related to ComEd's transmission and distribution system reliability. In conjunction with these investigations staff personnel were assigned to observe and monitor the subsequent "Rehab" programs instituted by ComEd in those years and through 2001 and report on the company's efforts to re-establish the reliability of ComEd's transmission and distribution system.

Commencing with the fourth calendar quarter of 2001, and continuing for three years, ComEd will file a quarterly report with the Commission focusing on actions and progress in coordination with ComEd's annual construction and business cycle. The report will detail ComEd's actions and progress in implementing:

- (1) ComEd's current plan to maintain, expand and improve its transmission and distribution infrastructure. Changes in ComEd's plan made during the reporting quarter will be noted and explained.
- (2) ComEd's actions taken in response to recommendations about ComEd's transmission, distribution and management systems.

The Commission is in the process of contracting with an outside vendor to provide: (1) a reasonable assurance of the accuracy of the quarterly ComEd reports to the Commission; and (2) an outside independent resource to investigate major outages that may occur in the future.

Mercury Cleanup in Northern Illinois

In September 2000, the Attorney General, joined by Cook and DuPage County, filed a lawsuit against Nicor and two of its contractors to compel a swift and effective cleanup of the mercury contamination caused by the past removal of mercury containing regulators within the homes of Nicor's residential customers. In addition to the lawsuit, the AG's office also formed a task force to monitor Nicor's mercury cleanup activities. The Commission took part in the task force and provided assistance in reviewing the plans and other documentation associated with the cleanup of the spilled mercury. On October 10, 2001, this lawsuit was settled among the parties. As a condition of this settlement, Nicor must, for a period of five years, promptly respond to any requests from its customers, who presently or previously had mercury containing regulators within their premise, in order to perform an inspection for mercury contamination and to follow agreed upon protocols to clean up any discovered mercury contamination.

ECONOMIC DEVELOPMENT PROGRAM

The Commission's economic development activities, as directly related to the Illinois Public Utilities Act, are coordinated by the Financial Analysis Division (FAD). A summary of the program since its inception may be found in the 1996 and previous Commission annual reports.

The Commission coordinates its economic development activities with other state agencies, including the Department of Commerce and Community Affairs. Commission staff members represent the Commission on interagency task forces that relate to the Commission's economic development activities. Individual economic development project proposals are reviewed in conjunction with appropriate staff from utilities, state and local government, and private businesses. Staff comments on tariff and/or rate filings by utilities and testimony in rate case proceedings serve to further articulate Commission policies in the area of economic development.

As implementation of customer choice continues, Commission rulemakings and decisions in the following areas will be assessed on an ongoing basis to evaluate impacts on economic development:

- requirements for alternative electric suppliers
- delivery services tariffs
- neutral fact finder process
- consumer-education materials
- distributed resources
- real-time pricing

SECTION 8

**Impacts of
Federal Activity
on State Utility
Service**

(8) A discussion of new or potential developments in federal legislation, and federal agency and judicial decisions relevant to State regulation of utility service.

COMMISSION POLICY AND ACTIONS IN FERC PROCEEDINGS

The Federal Energy Regulatory Commission (FERC) regulates the rates for wholesale electricity sales and transmission, the sale or resale of natural gas by interstate pipelines, and the transportation of natural gas by interstate pipelines. The primary goal of the Illinois Commerce Commission's Federal Energy Program is to ensure that the rules, policies, rates, and terms and conditions of service that FERC establishes for electric transmission service, bulk power sales, and natural gas pipeline transportation are fair and reasonable for Illinois energy consumers. The activities of the Federal Energy Program are discussed in more detail in the following sections.

DEVELOPMENTS IN THE NATURAL GAS INDUSTRY

Interstate natural gas pipeline transportation service operates under the Order 636 open access rules adopted by FERC in 1992. In 2001, FERC continued to hone its interstate natural gas transportation policy through incremental modifications through the issuance of Order 637. FERC's gas policy continues to focus on improving the efficiency of the natural gas market, increasing competition and protecting consumers against the exercise of market power by pipelines.

Illinois and the Midwest in general, continues to see major activity in new interstate natural gas pipeline construction proposals. These proposals are in response to continued growth in natural gas demand and increased access to newer gas supply basins such as those in western Canada.

DEVELOPMENTS IN THE ELECTRIC POWER INDUSTRY

In 1996, FERC issued Order 888. This landmark administrative rule is intended to facilitate broad open access to transmission facilities and a nation-wide competitive wholesale electric power market. Order 888 requires each transmission-owning electric utility to have generally available open access transmission tariffs on file, functionally separate wholesale power sales functions from operation of the transmission system and charge themselves the same rates for wholesale transactions that they charge third-party transmission customers. On December 20, 1999, FERC issued Order 2000, a generic rulemaking on Regional Transmission Organizations (RTOs).

FERC has spent much of 2001 focusing its attention towards the implementation of Order 2000 and the development of RTOs. Currently, Illinois utilities are members of two proposed Midwest RTOs, either the Midwest Independent Transmission System Operator (MISO) or the Alliance RTO. Both RTOs were to be operational on December 15, 2001 but a backlog of compliance filings and disputes regarding the organization and structure of both the MISO and the ARTO resulted in FERC pushing the operational deadline back into the first quarter of 2002. On December 19, 2001 FERC issued five orders that signaled a strong desire by FERC to consolidate both the MISO and the ARTO into a single Midwest RTO. Through the orders, FERC approved the MISO as the first official RTO in the country. FERC denied the ARTO official RTO status due to insufficient scope. FERC has urged the ARTO members to work with the MISO towards consolidating the two RTOs into one single Midwest RTO.

The Illinois Electric Service Customer Choice and Rate Relief Law of 1997, 220 ILCS 5/16-101, et seq., adopted on December 16, 1997, introduced the concept of delivery services and required Illinois utilities to provide open access to delivery services on a phased-in basis. However, in adopting that statute, the

Illinois General Assembly recognized that certain components of delivery service may be subject to FERC jurisdiction. Therefore, the statute states:

An electric utility shall provide the components of delivery services that are subject to the jurisdiction of the Federal Energy Regulatory Commission at the same prices, terms and conditions set forth in its applicable tariff as approved or allowed into effect by that Commission. The [ICC] shall otherwise have the authority pursuant to Article IX to review, approve, and modify the prices, terms and conditions of those components of delivery services not subject to the jurisdiction of the Federal Energy Regulatory Commission(220 ILCS 5/16-108)

Consequently, as retail open access is introduced in Illinois, the ICC has been actively engaged at FERC to ensure that the components of delivery service for which FERC has regulatory oversight responsibility are provided at rates, terms, and conditions that are appropriate for Illinois' retail direct access program.

SIGNIFICANT DEVELOPMENTS IN THE ILLINOIS REGULATORY ENVIRONMENT

The Electric Service Customer Choice and Rate Relief Law of 1997, enacted into law in December 1997, fixed a timetable for the introduction of electric retail choice in Illinois, beginning with the opening electric market on October 1, 1999. On that date, approximately 64,000 non-residential electric customers, about one-seventh of all non-residential customers, became eligible to choose a new electric supplier. An additional 609,000 non-residential customers became eligible to choose a new electric supplier on January 1, 2001. The electric market will open to residential customers by May 2002.

As of November 30, 2001, approximately 20,400 customers have switched the generation portion of their electric service, either to an alternative supplier or to a lower-cost generation service offered by the local utilities. Customer switching is concentrated primarily in the Commonwealth Edison service area, where approximately 18,000 customers have switched from bundled service to an alternative generation service. Electric customers in the AmerenUE, AmerenCIPS, Illinois Power and MidAmerican Energy service areas also have switched to alternative suppliers. No customers in the state's remaining five service areas have switched electric suppliers.

The Commission certified five Alternative Retail Electric Suppliers in 2001, increasing the current total number of certified suppliers to fourteen. Additionally, each of the state's nine investor-owned electric utilities is entitled to provide electric service to eligible retail customers outside their service areas. However, only about half of the electric utilities have expressed an interest in selling power and energy to retail customers outside their traditional service areas.

NATIONAL DEVELOPMENTS

Numerous electric industry-restructuring bills were introduced in the 107th Congress. Bills were introduced in both the Senate and the House. Although numerous hearings were held on these bills, no comprehensive electric legislation was voted out of either the Senate or the House in 2001. In addition, the President issued a National Energy Policy.

FEDERAL JUDICIAL ACTIONS

In *Central Maine Power Company v. Federal Energy Regulatory Commission*, 252 F.3d 34, (United States Court of Appeals, First District), a number of retail electric utilities with service areas in the region served by ISO-New England, Inc. (ISO-NE), challenged a December 15, 2000, order of the FERC (December 2000 order) that had the effect of rejecting an ISO-NE filing proposing an installed capability ("ICAP") deficiency charge of \$0.17 per kilowatt-month. A prior FERC order had required ISO-NE to propose an ICAP deficiency charge as a replacement for an auction market mechanism for the purchase of additional reserve capability, and the December 2000 order rejected the \$0.17 charge as a "token payment," and required the reinstatement of an \$8.75 charge that had been in effect from 1990 until the

creation of the auction regime in 1998. Affected utilities petitioned the United States Court of Appeals for a stay of the \$8.75 charge while their appeals were pending, and the Court granted the stay.

In its opinion dated June 2001, the Court stated that the principal argument raised by the petitioners was that the \$8.75 charge was not supported by substantial evidence. The Court also considered related claims that the FERC had failed to consider reasonable alternatives, and that there were flaws in the procedure leading to the December order.

The Court ultimately did not find that FERC's procedure had been flawed, but rather remanded the matter for further proceedings before the FERC. The Court stated that the primary questions FERC should answer were "why, despite petitioners' various claims to the contrary, a substantial ICAP charge is still required to enforce reserve obligations; why, in light of petitioners' claims of a lower present cost of peaking capacity, \$ 8.75 is the proper interim figure; and why any alternatives already proffered by opponents are inadequate or are otherwise not properly considered at this time." The Court did not specify a particular procedure for the FERC to follow on remand, but did vacate its earlier stay order precluding the imposition of the \$8.75 charge.

In *California Power Exchange Corporation v. FERC*, 245 F.3d 1110 (United States Court of Appeals for the Ninth Circuit; Opinion filed April 11, 2001), the Court considered two petitions for writs of mandamus arising out of FERC activity related to "the crisis surrounding California's restructuring of its electricity market." One, filed by California Power Exchange Corporation (CalPX) sought a stay of FERC action prohibiting California's main investor-owned utilities from selling power on a voluntary basis into the CalPX markets, terminating the CalPX wholesale tariff and CTS rate schedule, effective May 1, 2001, and imposing an interim \$ 150/MWh "breakpoint" in the Core markets of CalPX. The other involved a claim by the City of San Diego that FERC had unreasonably delayed taking action on California wholesale power purchasers' requests for refunds, particularly for the October 2, 2000, to December 31, 2000, period.

The Court consolidated these petitions, reasoning that they each challenge FERC's authority to address conditions creating unjust and unreasonable market-based rates by altering market rules and structures.

The Court concluded that CalPX was not entitled to mandamus relief because it had failed to establish that any of its three claims was "clear and certain." As for the City of San Diego, the Court expressed its belief "that FERC's formulation of its prospective structural remedies for the California wholesale market is consistent with its obligations under Section 206(a) of the [Federal Power Act] 16 U.S.C. Section 824(e)," and that the FERC's "decision to give higher priority to structural remedies over retroactive refund determinations does not in any way entitle the City to the mandamus relief it requests."

In *Enron Power Marketing v. FERC* (00-809) and *New York et al v. FERC* (00-568), the U.S. Supreme Court agreed to hear two cases centering on FERC's Order 888. At issue is whether or not the open access policies and regulations found in Order 888 are permissible under Sections 205 and 206 of the Federal Power Act. In *Enron Power Marketing*, Enron argues that FERC has not been stringent enough in demanding an "open access tariff" for grid users and should play a stronger role in requiring electric grid owners to provide fair access to their competitors. In *New York*, the state of New York argues that FERC not only has the authority, but the obligation to protect competing purchases against discrimination in access to the grid. The cases were argued in October and were pending before the U.S. Supreme Court at the end of 2001.

In *Public Utility District No. 1 of Snohomish County, Washington, v. FERC* (00-1174), the D.C. Circuit Court of Appeals issued, on December 11, 2001, a decision dismissing challenges against FERC's Order 2000. The court dismissed challenges by jurisdictional utilities on the ground that the utilities fail to satisfy the statutory standard for appellate court review, which requires an actual or imminent injury that can be redressed by a favorable court decision. The court found that the utilities are not aggrieved by Order 2000 because, pursuant to Order 2000, RTO participation is voluntary and the utilities can opt not to participate in RTOs. The court also dismisses a challenge by the Public Utility District No. 1 of Snohomish County, Washington, which challenged the Commission's failure to address the costs and benefits of RTO

formation in Order 2000, and a challenge by South Carolina Public Service Authority, which sought review of the Commission's refusal to forbid passive ownership of an RTO by market participants.

RELEVANT FEDERAL LEGISLATION

A listing of federal legislation relevant to the utility industry is in Appendix B.

SECTION 9

Recommendations for Proposed Legislation

(9) All recommendations for appropriate legislative action by the General Assembly.

The Commission's legislative agenda for the second year of the 92nd General Assembly is currently being formulated. A detailed discussion of specific proposals currently under consideration would be premature at this time.

Appendix A

Summary of Significant Commission Decisions

SUMMARY OF SIGNIFICANT COMMISSION DECISIONS

ELECTRIC UTILITY DOCKETS

- 98-0147** **Illinois Commerce Commission**
On Its Own Motion
Rulemaking proceeding to implement Section 16-119A(a) of the Public Utilities Act regarding standards of conduct.
- Consol.**
98-0148 **Illinois Commerce Commission**
On Its Own Motion
Rulemaking proceeding to implement Section 16-119A(b) of the Public Utilities Act regarding functional separation between generation services and delivery services of Illinois Electric Utilities.
- This docket concerns a proposed rule regarding functional separation and standards of conduct for the competitive electric industry. A first notice order was entered on February 15, 2001 and a second notice order was entered on October 24, 2001. These rules were adopted by the Commission on January 24, 2002.
- 99-0468** **Illinois Commerce Commission**
On Its Own Motion
-vs-
Central Illinois Light Company
Reconciliation of revenues collected under fuel adjustment charges with actual costs.
- Consol.**
00-0724 **Illinois Commerce Commission**
On Its Own Motion
-vs-
Central Illinois Light Company
Reconciliation of revenues collected under fuel adjustment charges with actual costs prudently incurred
- On August 21, 2001, the Commission resolved CILCO's 1999 and 2000 fuel adjustment charge clause reconciliation proceedings. At issue in the 1999 proceeding were CILCO's actions which led to the incurrence of approximately \$33 million in energy costs in July of 1999. The stipulation approved by the Commission's order resulted in a refund of approximately \$17 million.
- 00-0199** **WPS Energy Services, Inc.**
Application for Certificate of Service Authority under Section 16-115 of the Public Utilities Act.
- On May 9, 2001, the Commission entered an Order on Reopening which found that WPS Energy Services, Inc. (WPS) is presently in compliance with the reciprocity provisions of the Act. Accordingly, the previously granted certificate authorizing WPS to operate as an alternative retail electric supplier (ARES) was affirmed subject to annual "certification of compliance" requirements, relating to reciprocity and other issues, which are contained in the Commission's ARES rules.

00-0259 **Commonwealth Edison Company**
Petition for expedited approval of implementation of a market-based alternative tariff, to become effective on or before May 1, 2000, pursuant to Article IX and Section 16-112 of the Public Utilities Act.

Consol.
00-0395 **Central Illinois Public Service Company Union Electric Company**
Petition for approval of revisions to market value tariff, Rider MV.

Consol.
00-0461 **Illinois Power Company**
Proposed new Rider MVI and revisions to Rider TC. (Tariffs filed on June 5, 2000.

In these consolidated dockets, involving over 20 parties, the Commission entered an Order authorizing Commonwealth Edison Company, Illinois Power Company, Central Illinois Public Service Company and Union Electric Company to implement market value index or "MVI" tariffs pursuant, in part, to Section 16-112 of the Public Utilities Act. These MVI tariffs would govern the methodology used by those companies for computing market values, and the resulting computations would replace the default determinations of market values produced each year by a Neutral Fact Finder under Section 16-112 of the Act. The case is presently on appeal.

00-0295 **Commonwealth Edison Company**
Petition for approval of general service agreements and to engage in other transactions, with affiliated interests pursuant to Sections 7-101 and 7-102 of the Public Utilities Act.

ComEd requested that the Commission authorize and consent to ComEd's entry into general service agreements with one or more affiliated "service companies" as of the effective date of the merger involving ComEd's parent, Unicom Corporation and PECO Energy Company. A final order was entered on November 7, 2001.

00-0361 **Commonwealth Edison Company**
Petition for Approval of a Revised Decommissioning Expense Adjustment Rider.

On February 21, 2001, the Commission entered an Amended Order approving a six year decommissioning expense adjustment rider. The Order detailed Commonwealth Edison's right to recover decommissioning costs each year for six years commencing January 1, 2001. The Commission's Amended Order was appealed to the Appellate Court. On April 19, 2001, the court entered a final order dismissing the appeal. The Commission's Amended Order also stated that Commonwealth Edison is to continue segregation of the plant decommissioning trusts upon transfer to Genco as Ordered in Docket No. 00-0369 and 00-0394 (consolidated). The Appellate Court affirmed the Order in Dockets 00-0369 and 00-0394 on October 4, 2001.

00-0494 **Illinois Commerce Commission**
On Its Own Motion
-vs-
Central Illinois Light Company Central Illinois Public Services Company
Commonwealth Edison Company Illinois Power Company Interstate Power
Company MidAmerican Energy Company Mt. Carmel Public Utility Company South
Beloit Water, Gas, and Electric Company, and Union Electric Company
Proceeding on the Commission's own motion concerning delivery services tariffs
of all Illinois electric utilities to determine what if any changes should be ordered
to promote statewide uniformity of delivery services and related tariffed offerings.

This docket established uniform language and procedures in Illinois utilities' delivery services tariffs. A final order was entered on March 21, 2001.

**00-0579 Central Illinois Light Company
Proposal to eliminate its Electric Fuel Adjustment Clause and include fuel and power supply charges in base rates**

On March 14, 2001, the Commission entered an order dismissing CILCO's petition seeking the elimination of its fuel adjustment charge clause on the grounds that CILCO misrepresented its anticipated coal costs.

**00-0699 Illinois Commerce Commission
On Its Own Motion
-vs-
Central Illinois Light Company
Requirement to initiate program of tree trimming and vegetation management.**

The Commission entered as Order on Rehearing on May 9, 2001, directing CILCO to improve its tree trimming program to minimize interruptions of service and the possibility of injury to employees and the general public. The Commission stipulated, in part, that the improvements should include: Begin immediate trimming of trees as required by 83 Ill. Adm. Code 305; achieve a four year trim cycle by December, 31, 2002; after a four year trim cycle has been achieved continue trimming trees on a cycle no longer than four years; keep records of the tree trimming program; conduct random inspections of at least ten percent of the trimming work performed; and file quarterly reports with the Commission's Chief Clerk explaining actions taken and will be taking to meet the requirements of this Order.

**00-0802 Central Illinois Public Service Company (AmerenCIPS) and Union Electric Company (AmerenUE)
Request for approval of revisions to delivery services tariffs, and for approval of Delivery Services Implementation Plan for Residential Customers.**

In this proceeding, Central Illinois Public Service Company and Union Electric Company proposed revisions to their delivery services tariffs. Among other things, delivery services would be made available to residential customers. Pursuant to 16-104(a)(4) of the Act, such services must be offered before May 1, 2002. On December 11, 2001, the Commission entered its Order in this matter.

**01-0053 Illinois Commerce Commission
On Its Own Motion
Proceeding under Section 16-112(m) of the Public Utilities Act to determine whether to continue or terminate the neutral-fact-finder procedure.**

In this proceeding, the Commission entered an Order which discontinued the neutral fact-finder (NFF) process for a period of two years pursuant to Section 16-112(m) of the Public Utilities Act. Thus, the NFF process will not be used to produce market values for calendar years 2002 and 2003. This period is intended to correspond to the sunset provisions in the Commission's Order in the MVI Proceeding, 00-0259/00-0396/00-0461.

**01-0253 Illinois Commerce Commission
On Its Own Motion
Amendment of 83 Ill. Adm. Code 425**

On July 25, 2001, the Commission entered an order adopting revisions to 83 Ill. Adm. Code 425. Part 425 governs the reconciliation of electric fuel adjustment charges. The revisions update Part 425 to reflect the fact that electric utilities may now engage in non-jurisdictional sales.

**01-0376 Illinois Commerce Commission
On Its Own Motion
Amendment of 83 Ill. Adm. Code 451, "Certification of Alternative Retail Electric Suppliers"**

The Commission previously adopted 83 Ill. Adm. Code 451, "Certification of Alternative Retail Electric Suppliers" (Part 451), implementing Section 16-115 of the Act. The Commission opened this proceeding to develop the certification requirements for the offering by ARES of delivery services to residential customers. A first notice order has been issued, and the first notice comment period is in progress.

Electric and Gas

**00-0261 Interstate Power Company
Interstate Power and Light Company
Joint Application for Approval of Merger and Reorganization.**

Interstate Power Company and Interstate Power and Light Company filed a joint application seeking the approval for the proposed merger of IPC with and into IES Utilities, Inc. The surviving company is known as "IPL." On May 23, 2001, the Commission approved the application.

GAS UTILITY DOCKETS

**00-0575 Consumers Gas Company
Petition Pursuant to §7-101 of the Public Utilities Act seeking authority to enter agreements for employment of an engineering company in which an affiliated interest exists.**

**Consol.
00-0618 Consumers Gas Company
Proposed general increase in gas rates. (Tariffs filed August 23, 2000)**

The Commission entered an order on June 27, 2001, granting a gas rate increase of \$101,233 (2.56%). Consumers had requested an increase of \$507,222 (12.82%). The Commission found that the Company's overall cost of capital is 10.81% and authorized a rate of return on common equity of 12.40%.

**00-0586 Illinois Commerce Commission
On Its Own Motion
Adoption of 83 Ill. Adm. Code 550, "Non-Discrimination in Affiliate Transactions for Gas Utilities."**

On September 18, 2001, the Commission adopted rules dealing with affiliate relationships of gas utilities.

00-0714 Illinois Power Company

Reconciliation of revenues collected under gas adjustment charges with actual costs prudently incurred.

The Commission entered an order on November 27, 2001, that found Illinois Power Company imprudent during calendar year 2000 with regard to its decision to retire its Freeburg propane plant and its method for selecting swing firm supply reservation contracts. The Commission's imprudence finding resulted in a \$958,000 disallowance of Illinois Power's gas supply costs.

00-0789/

People of Cook County
Petition for Emergency Rulemaking and Expedited Investigation.

Consol.
01-0046

Patrick Quinn
Petition to the Members of the Illinois Commerce Commission Pursuant to Section 5-145(b) of the Illinois Administrative Procedure Act.

These cases involved petitions for emergency rulemaking for Part 83 Ill Adm. Code Part 285. These dockets were filed by the Cook County State's Attorney's office and Patrick Quinn. The Petitions requested that the Commission adopt the proposed rules contained in the respective petitions on an emergency basis. The Petitioners alleged that the emergency rules were necessary to assist consumers in dealing with the volatile gas prices that occurred during the winter heating season of 2000-2001. The Commission declined to adopt the emergency rules; however, it proceeded with full evidentiary hearings regarding the proposed rules. Following that process, the Commission concluded that many of the proposed rules were already contained in the existing Part 285. Further, the Commission determined that Part 285 afforded flexibility to the utilities which allowed them to offer different payment plans and options which assisted their customers in dealing with the increased gas costs. On this basis, the Commission concluded that the current rules were appropriate and reasonable and in fact, responded well to the conditions that existed during a period of high gas prices.

01-0321

LaTessa Salone, Janet DeMarinis, Andrea Raila, Pat Quinn and the petition signers of the Customer Utility Convention
Petition to the Members of the Illinois Commerce Commission
Pursuant to Section 5-145(b) of the Illinois Administrative Procedure Act.

Petition For Emergency Rulemaking case. Petitioners requested an emergency rule to prohibit disconnection of service for gas utility customers who were in arrears on their bills due to last winter's high natural gas prices. The Commission dismissed this proceeding on December 19, 2001.

WATER AND SEWER UTILITY DOCKETS

00-0366

Consumer Illinois Water Company
Petition for (1) issuance of a Certificate of Public Convenience and Necessity ("Certificate") to operate a water supply and distribution system and sewage collection system in Lake County; (2) approval of accounting entries related to acquisition of facilities; (3) approval of application of rates.

This Petition sought approval for water supply and sewage collection service in Lake County and for proposed rates. Staff and the Company were in dispute over accounting treatment for facilities acquisition. A Final Order was entered on June 27, 2001.

00-0763

Utilities, Inc.
Holiday Hills, Inc.
Community Service Corporation

Application for authorization to carry out the terms of a Purchase Agreement between Utilities, Inc. and Community Service Corporation providing for the acquisition by the former of all of the assets of the latter and for other relief.

The Commission granted the Petition for approval of a Purchase Agreement for Holiday Hills Utilities, Inc. to acquire the assets of Community Service Corporation and for miscellaneous ancillary relief.

01-0561

**Consumers Illinois Water Company
Petition for Approval of Qualifying Infrastructure Surcharge Riders.**

In this proceeding, the Commission entered an order on December 11, 2001, approving, with certain conditions, the request of Consumers Illinois Water Company to implement qualifying infrastructure plant (QIP) surcharge riders applicable to its Kankakee, Vermilion and Woodhaven Water Divisions. Such riders would allow the Company to recover from customers, subject to an annual reconciliation process, the costs associated with qualifying projects. The riders are proposed pursuant to Section 9-220.2 of the Public Utilities Act and recently adopted 83 Ill. Adm. Code 656 (Part 656) of the Commission's rules, and are an alternative to the rate case process.

Appendix B

Relevant Federal Legislation

RELEVANT FEDERAL LEGISLATION

ENERGY: HOUSE BILLS

HR 610 (Rush, D-Illinois)

The Middle Income Home Heating Assistance Act of 2001 is to allow individuals a refundable credit for a portion of the amount paid for natural gas. HR 610 is in the House Ways and Means Committee.

HR 954 (Inslee, D-Washington)

The Home Energy Generation Act provides for the use of net metering by certain small electric energy generation systems. HR 954 is in the House Sub-committee on Energy and Air Quality.

HR 1647 (Barton, R-Texas)

The Electricity Emergencies Act of 2001 is to provide for electricity emergencies. HR 1647 is in the House Resources Committee.

HR 3406 (Barton, R-Texas)

This is the Electric Supply and Transmission Act. It is now in the House Resources Committee.

ENERGY: SENATE BILLS

S 26 (Feinstein, D-California)

Authorize the Secretary of Energy to impose interim limitations on the cost of electric energy to protect consumers from unjust and unreasonable prices in the electric energy market. S 26 is in the Senate Energy and Natural Resources Committee.

S 72 (Bingaman, D-New Mexico)

The Energy Efficient Cost Savings Improvement Act of 2001 enhances and extends authority relating to energy savings performance contracts of the Federal Government. S 72 is now in the Senate Energy and Natural Resources Committee.

S 94 (Dorgan, D-North Dakota)

The Act provides a 5-year extension of the credit for electricity produced from wind. S 94 is now in the Senate Finance Committee.

S 235 (McCain, R-Arizona)

The Pipeline Safety Improvement Act provides for enhanced safety, public awareness, and environmental protection in pipeline transportation. S 235 passed the Senate and is now in the House Sub-committee on Energy and Air Quality.

S 388 (Murkowski, R-Alaska)

The National Energy Security Act of 2001 protects the energy security of the United States and decrease America's dependency on foreign oil sources to 50 percent by the year 2011. S 388 is now in the Senate Energy and Natural Resources Committee.

S 389 (Murkowski, R-Alaska)

The National Energy Security Act of 2001 protects the energy security of the United States and decrease America's dependency on foreign oil sources to 50 percent by the year 2011. S 389 is now in the Senate Finance Committee.

- S 420** (Bingaman, D-New Mexico)
Senate Amendment 28 to S.420 increased Funding for LIHEAP, Weatherization and State Energy Grants. S 420 has passed the Senate and has been sent to the House.
- S 472** (Domenici, R-New Mexico)
The Nuclear Energy Electricity Supply Assurance Act of 2001 ensures that nuclear energy continues to contribute to the supply of electricity in the United States. S 472 Is now in the Senate Energy and Natural Resources Committee.
- S 556** (Jeffords, I-Vermont)
The Clean Power Act of 2001 amends the Clean Air Act to reduce emissions from electric power plants. S 556 is now in the Senate Environment and Public Works Committee.
- S 764** (Feinstein, D-California)
The bill directs the Federal Energy Regulatory Commission to impose just and reasonable load-differentiated demand rates or cost-of-service based rates on sales by public utilities of electricity. S 764 is now in the Senate Energy and Natural Resources Committee.
- S 933** (Jeffords, I-Vermont)
The Combined Heat and Power Advancement Act of 2001 amends the Federal Power Act to encourage the development and deployment of innovative and efficient energy technologies. S 933 is now in the Senate Energy and Natural Resources Committee.
- S 1766** (Bingaman, D-New Mexico)
This is the Energy Policy Act of 2002, which sets the direction for energy policy in the next year. S 1766 is on the Senate Calendar.

Appendix C

Emission Allowance Reports

(Note: The emission reports are not included in the web edition of the report, but are in the printed document.)